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GOVERNMENT OF INDIA
LEGISLATIVE DEPARTMENT

THE
UNREPEALED CENTRAL ACTS AND ORDINANCE
WITH CHRONOLOGICAL TABLE AND INDEX

VOL. XI

From 1941 to 1943, both inclusive



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PREFACE.

This Volume has been prepared on the same lines as the earlier Volumes of this compilation and includes Ordinances promulgated during the years 1941-1943. The Acts and Ordinances included in this Volume have been printed as modified up to 1st January, 1944.

L. E. JAMES,
Assistant Secretary,
Legislative Department.

Simla,
The 10th July, 1944.

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Year. 1	No. 2	Short title. 3	Page. 4
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	II	The Indian Merchandise Marks (Amendment) Act, 1941	Not printed.
	III	The Petroleum (Amendment) Act, 1941	Not printed.
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	II	The Indian Merchant Shipping (Amendment) Act, 1942	Not printed.
	III	The Indus Vessels (Amendment) Act, 1942	Not printed.
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	XXII	The Indian Rubber Control (Temporary Amendment) Act, 1942	Not printed.
	XXIII	The Code of Civil Procedure (Amendment) Act, 1942	Not printed.
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	XXV	The Repealing and Amending Act, 1942	Not printed.
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1943	I	The Motor Vehicles (Amendment) Act, 1943	Not printed.
	II	The Government Savings Banks (Amendment) Act, 1943	Not printed.
	III	The Indian Railways (Amendment) Act, 1943	Not printed.
	IV	The Aligarh Muslim University (Amendment) Act, 1943	Not printed.
	V	The Code of Civil Procedure (Amendment) Act, 1943	Not printed.
	VI	The Indian Penal Code (Amendment) Act, 1943	Not printed.
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	XXVI	The Criminal Procedure Amendment Act, 1943	Not printed.
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	XXIX	The Indian Tea Control (Second Amendment) Act, 1943	Not printed.
	XXX	The Indian Companies (Amendment) Act, 1943	Not printed.

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	XLIX	The Collective Fines (Second Amendment) Ordinance, 1942	Not printed.
	L	The Indian Navy (Discipline) Amendment Ordinance, 1942	Not printed.
	LI	The National Service (Technical Personnel) Second Amendment Ordinance, 1942	Not printed.
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PART I

Unrepealed Central Acts, 1941-1943.

THE
UNREPEALED CENTRAL ACTS AND ORDINANCES
VOLUME XI.

**THE INSURANCE DEPOSITS (TEMPORARY REDUCTION) ACT,
1941.**

Act No. I of 1941¹.

[3rd March, 1941.]

An Act to provide for the reduction temporarily of the amounts payable as instalments of the sum to be deposited by an insurer under section 7 of the Insurance Act, 1938.

WHEREAS, in consequence of conditions arising out of the present war, it is expedient to provide for the reduction temporarily of the amounts payable as instalments of the sum to be deposited by an insurer under section 7 of the Insurance Act, 1938 (IV of 1938) :

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Insurance Deposits (Temporary Reduction) Act, 1941.

(2) It extends to the whole of British India.

2. *Definition.*—In this Act “insurer” means an insurer as defined in clause (9) of section 2 of the Insurance Act, 1938 (IV of 1938), except that it does not include a Mutual Insurance Company or a Co-operative Life Insurance Society to which Part IV of that Act applies.

3. *Reduction of instalments of deposits.*—(1) An insurer entitled to the benefits of this Act shall, subject to the provisions of section 5, be deemed in respect of any instalment of the deposit to be made by him under section 7 of the Insurance Act, 1938 (IV of 1938) which he was required to pay during the year commencing on the 1st day of January, 1940, or which he may be required to pay at any time after the end of that year and so long as this section continues to have effect, to have complied with the provisions of the said section 7 as to payment of instalments of deposits, if he has paid or pays in accordance with the provisions of that section not less than one half the total amount which would have been required by that section as the instalment, had the insurer not availed himself of the provisions of this Act.

(2) If an insurer entitled to the benefits of this Act, when paying an instalment of deposit, has, in respect of any instalment due during the year commencing on the 1st day of January, 1940, paid more than one half the total amount required by the said section 7 as the instalment, he may at his option have the amount of any such surplus payment appropriated to the payment of the next or any subsequent instalment of deposit required from him under the said section 7 read with sub-section (1) of this section.

(3) This section shall cease to have effect on the expiration of one year from such date as may be fixed, for the purposes of this Act, by the Central Government by notification in the official Gazette as the date of termination of the present hostilities.

4. *Insurers entitled to the benefits of this Act.*—An insurer shall be entitled to the benefits of this Act only if—

(a) he carries on life insurance business only, and

¹For Statement of Objects and Reasons, see Gazette of India, Extraordinary, dated the 21st January, 1941.

The Act has been applied to the Darjeeling Dist. and the partially excluded areas of the Mymensingh Dist., from 17th April, 1941, see Ben. Govt. Notfn. No. 1140-Com., dated the 7th April, 1941.

(b) the date on which he first assumed risk on any policy issued by him was earlier than the 3rd day of September, 1939, but not earlier than the 3rd day of September, 1929.

5. *Ceaser of title to the benefits of this Act.*—(1) An insurer otherwise entitled to the benefits of this Act shall cease to be so entitled in any year if in the preceding year his total premium income, including annuity considerations, as shown in the revenue-account prepared under the Insurance Act, 1938 (IV of 1938), exceeded rupees thirty thousand.

(2) An insurer otherwise entitled to the benefits of this Act shall cease to be so entitled in respect of any future instalment—

(a) if after the 1st day of January, 1941, he declares any bonus or dividend at a rate higher than the rate at which such bonuses or dividends were last declared by him before the 3rd day of September, 1939, or

(b) if the proportion of his renewal premium income spent by him in payment of commission and other expenses including capital expenditure, determined in accordance with Rule 25 of the Insurance Rules, 1939, exceeds in any year the proportion as so determined for the accounting period ending on the 31st day of December, 1939.

6. *Resumption of payment of instalments in accordance with Act IV of 1938.*—(1) When section 3 ceases to have effect, or if before that date an insurer ceases under clause (a) or clause (b) of sub-section (2) of section 5 to be entitled to the benefits of this Act, instalments of deposits shall be paid in accordance with the provisions of section 7 of the Insurance Act, 1938 (IV of 1938) (except that no insurer shall be required to pay as an instalment an amount exceeding the amount which would have been payable by him had he not availed himself of the provisions of this Act), until the last instalment required to be paid under the said section 7 has been paid, and the balance of the deposit then remaining unpaid in consequence of the reduced instalments authorised under this Act shall be paid by the insurer in such further instalments, of such amount and at such times, as the Central Government may direct.

(2) If while section 3 continues to have effect an insurer ceases in any year under sub-section (1) of section 5 to be entitled to the benefits of this Act, instalments of deposit in that year shall be paid by him in accordance with the provisions of section 7 of the Insurance Act, 1938 (IV of 1938), except that he shall not be required to pay as an instalment an amount exceeding the amount which would have been payable by him had he not availed himself of the provisions of this Act, and the provisions of sub-section (1) of this section shall apply to the payment by such insurer of any balance of the deposit due from him which remains unpaid after the last instalment required to be paid under the said section 7 has been paid.

7. *Saving in respect of delayed payments of instalments of deposits.*—For the purposes of the Insurance Act, 1938 (IV of 1938), an insurer entitled to the benefits of this Act who has failed to pay before the 1st day of January, 1941, an instalment of deposit due in the year 1940 shall not be liable to any consequences on that account in respect of a failure to comply with the provisions of section 7 of the said Act as to deposits if before the 15th day of February, 1941, he has paid as such instalment not less than one half the total amount required by the said section 7.

8. *Removal of difficulties.*—If any difficulty arises in determining the amount payable as an instalment of deposit by an insurer under this Act, the matter shall be decided by the Central Government whose decision shall be final.

THE BERAR LAWS ACT, 1941.

Act No. IV of 1941.¹

[17th March, 1941.]

An Act to extend certain Acts to Berar.

WHEREAS by orders made under the Indian (Foreign Jurisdiction) Order in Council, 1902, the provisions of certain Acts in force in British India have from time to time been applied to, and are now, by virtue of such application, in force in, Berar ;

AND WHEREAS it is expedient that those and certain other Acts should be extended to, and be, by virtue of such extension, in force in, Berar ;

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Berar Laws Act, 1941.

(2) It shall come into force on such² date as the Central Government may, by notification in the official Gazette, appoint.

2. *Extension of certain Acts to Berar.*—(1) The Acts specified in the First Schedule and so much of any Act specified in the Second Schedule as relates to matters with respect to which the Central Legislature has power to make laws are hereby extended to, and shall be in force in, Berar ; and in any enactment so extended any reference by whatever form of words to subjects of His Majesty shall be deemed to include a reference to Berari subjects of His Exalted Highness the Nizam of Hyderabad, and notwithstanding anything contained in clause (7) of section 3 of the General Clauses Act, 1897, (X of 1897), any reference to British India shall be construed as a reference to British India and Berar.

(2) The Acts specified in the Third Schedule shall be amended in the manner set forth in the second column of that Schedule.

3. *Cesser of application of certain Acts to Berar.*—The application, if any, to Berar, made by order under the Indian (Foreign Jurisdiction) Order in Council, 1902, of the Acts specified in the First Schedule, of so much of any Act specified in the Second Schedule as relates to matters with respect to which the Central Legislature has power to make laws, and of the Indian Cotton Cess Act, 1923 (XIV of 1923), shall cease to have effect :

Provided that all appointments, delegations, notifications, orders, bye-laws, rules and regulations, which have been made or issued under, or in pursuance of, any provision of any of the said Acts as applied to Berar by order under the said Order in Council, and which are in force at the commencement of this Act, shall be deemed to have been made or issued under or in pursuance of the corresponding provision of that Act as now extended to, and in force in, Berar.

4. *Removal of doubt.*—For the removal of doubt it is hereby declared that the Acts specified in the Fourth Schedule have ceased to have effect and are repealed in Berar.

THE FIRST SCHEDULE.

¹For Statement of Objects and Reasons, see Gazette of India, 1940, Pt. V, p. 247 ; and for Report of Select Committee, see *ibid*, 1941, Pt. V, p. 50.

²The 1st August, 1941, see Gaz. of India, 1941, Pt. I, p. 966.

THE FIRST SCHEDULE.

[See sections 2 (1) and 3.]

Acts Extended to Berar.

Year.	Number.	Short Title.
1850	XIX .	The Apprentices Act, 1850.
1850	XXI .	The Caste Disabilities Removal Act, 1850.
1855	XIII .	The Indian Fatal Accidents Act, 1855.
1856	XI .	The European Deserters Act, 1856.
1856	XV .	The Hindu Widows' Re-marriage Act, 1856.
1860	XLV .	The Indian Penal Code.
1864	III .	The Foreigners Act, 1864.
1865	III .	The Carriers Act, 1865.
1866	XXI .	The Native Converts' Marriage Dissolution Act, 1866.
1867	XXV .	The Press and Registration of Books Act, 1867.
1869	IV .	The Indian Divorce Act.
1872	I .	The Indian Evidence Act, 1872.
1872	III .	The Special Marriage Act, 1872.
1872	IX .	The Indian Contract Act, 1872.
1872	XV .	The Indian Christian Marriage Act, 1872.
1873	V .	The Government Savings Banks Act, 1873.
1873	X .	The Indian Oaths Act, 1873.
1874	IX .	The European Vagrancy Act, 1874.
1875	IX .	The Indian Majority Act, 1875.
1875	XVIII .	The Indian Law Reports Act, 1875.
1876	IX .	The Native Coinage Act, 1876.
1877	I .	The Specific Relief Act, 1877.
1878	VIII .	The Sea Customs Act, 1878.
1878	XI .	The Indian Arms Act, 1878.
1879	XVIII .	The Legal Practitioners Act, 1879.
1881	XXVI .	The Negotiable Instruments Act, 1881.
1882	II .	The Indian Trusts Act, 1882.
1882	XII .	The Indian Salt Act, 1882.
1884	IV .	The Indian Explosives Act, 1884.
1888	III .	The Police Act, 1888.

THE FIRST SCHEDULE—*contd.*

Year.	Number.	Short Title.
1889	IV	The Indian Merchandise Marks Act, 1889.
1890	VIII	The Guardians and Wards Act, 1890.
1890	XI	The Prevention of Cruelty to Animals Act, 1890.
1891	XVIII	The Bankers' Books Evidence Act, 1891.
1898	V	The Code of Criminal Procedure, 1898.
1901	II	The Indian Tolls (Army) Act, 1901.
1903	VII	The Indian Works of Defence Act, 1903.
1903	XV	The Indian Extradition Act, 1903.
1904	VII	The Ancient Monuments Preservation Act, 1904.
1905	IV	The Indian Railway Board Act, 1905.
1906	III	The Indian Coinage Act, 1906.
1908	V	The Code of Civil Procedure, 1908.
1908	VI	The Explosive Substances Act, 1908.
1908	IX	The Indian Limitation Act, 1908.
1908	XIV	The Indian Criminal Law Amendment Act, 1908.
1908	XVI	The Indian Registration Act, 1908.
1909	IV	The Whipping Act, 1909.
1910	IX	The Indian Electricity Act, 1910.
1911	II	The Indian Patents and Designs Act, 1911.
1911	VIII	The Indian Army Act, 1911.
1912	IV	The Indian Lunacy Act, 1912.
1913	II	The Official Trustees Act, 1913.
1913	III	The Administrator General's Act, 1913.
1914	III	The Indian Copyright Act, 1914.
1916	VII	The Indian Medical Degrees Act, 1916.
1917	II	The Motor Spirit (Duties) Act, 1917.
1917	XVIII	The Post Office Cash Certificates Act, 1917.
1918	XXII	The Bronze Coin (Legal Tender) Act, 1918.
1919	XII	The Poisons Act, 1919.
1920	V	The Provincial Insolvency Act, 1920.
1920	XIV	The Charitable and Religious Trusts Act, 1920.
1920	XV	The Indian Red Cross Society Act, 1920.

THE FIRST SCHEDULE—*contd.*

Year.	Number.	Short Title.
1920	XLVII .	The Imperial Bank of India Act, 1920.
1920	XLVIII .	The Indian Territorial Force Act, 1920.
1920	XLIX .	The Auxiliary Force Act, 1920.
1921	XVIII .	The Maintenance Orders Enforcement Act, 1921.
1922	XI .	The Indian Income-tax Act, 1922.
1922	XII .	The Indian Finance Act, 1922.
1922	..	The Indian States (Protection against Disaffection) Act, 1922.
1923	IV .	The Indian Mines Act, 1923.
1923	V .	The Indian Boilers Act, 1923.
1923	VIII .	The Workmen's Compensation Act, 1923.
1923	XXIII .	The Legal Practitioners (Women) Act, 1923.
1924	VI .	The Criminal Tribes Act, 1924.
1925	XXXIX .	The Indian Succession Act, 1925.
1926	XI .	The Promissory Notes (Stamp) Act, 1926.
1926	XVI .	The Indian Trade Unions Act, 1926.
1926	XXI .	The Legal Practitioners (Fees) Act, 1926.
1926	XXXVIII .	The Indian Bar Councils Act, 1926.
1929	VII .	The Trade Disputes Act, 1929.
1929	XIX .	The Child Marriage Restraint Act, 1929.
1930	II .	The Dangerous Drugs Act, 1930.
1930	III .	The Indian Sale of Goods Act, 1930.
1930	XVIII .	The Silver (Excise Duty) Act, 1930.
1930	XIX .	The Indian Companies (Amendment) Act, 1930.
1930	XXIV .	The Indian Lac Cess Act, 1930.
1931	..	The Indian Finance Act, 1931.
1931	..	The Indian Finance (Supplementary and Extending) Act, 1931.
1931	XVI .	The Provisional Collection of Taxes Act, 1931.
1931	XXIII .	The Indian Press (Emergency Powers) Act, 1931.
1932	IX .	The Indian Partnership Act, 1932.
1932	XI .	The Public Suits Validation Act, 1932.
1932	XII .	The Foreign Relations Act, 1932.
1932	XIII .	The Sugar Industry (Protection) Act, 1932.

THE FIRST SCHEDULE—*concl'd.*

Year.	Number.	Short Title.
1932	XXIII .	The Criminal Law Amendment Act, 1932.
1933	II .	The Children (Pledging of Labour) Act, 1933.
1933	VII .	The Indian Finance Act, 1933.
1933	XVII .	The Indian Wireless Telegraphy Act, 1933.
1933	XXVII .	The Indian Medical Council Act, 1933.
1934	II .	The Reserve Bank of India Act, 1934.
1934	VIII .	The Khaddar (Name Protection) Act, 1934.
1934	IX .	The Indian Finance Act, 1934.
1934	XI .	The Indian States (Protection) Act, 1934.
1934	XIV .	The Sugar (Excise Duty) Act, 1934.
1934	XVI .	The Matches (Excise Duty) Act, 1934.
1934	XX .	The Indian Carriage by Air Act, 1934.
1934	XXII .	The Indian Aircraft Act, 1934.
1934	XXIII .	The Mechanical Lighters (Excise Duty) Act, 1934.
1934	XXV .	The Factories Act, 1934.
1934	XXXI .	The Iron and Steel Duties Act, 1934.
1934	XXXII .	The Indian Tariff Act, 1934.
1935	..	The Indian Finance Act, 1935.
1936	..	The Indian Finance Act, 1936.
1936	III .	The Parsi Marriage and Divorce Act, 1936.
1936	IV .	The Payment of Wages Act, 1936.
1936	XIV .	The Geneva Convention Implementing Act, 1936.
1937	I .	The Agricultural Produce (Grading and Marking) Act, 1937.
1937	VI .	The Arbitration (Protocol and Convention) Act, 1937.
1937	..	The Indian Finance Act, 1937.

THE SECOND SCHEDULE.

THE SECOND SCHEDULE.

[See sections 2 (1) and 3.]

Acts partially extended to Berar.

Year.	Number.	Short Title.
1843	V .	The Indian Slavery Act, 1843.
1850	XII .	The Public Accountants' Default Act, 1850.
1850	XXXVII	The Public Servants (Inquiries) Act, 1850.
1855	XXIV .	The Penal Servitude Act, 1855.
1870	VII .	The Court-fees Act, 1870.
1871	XXIII .	The Pensions Act, 1871.
1881	XI .	The Municipal Taxation Act, 1881.
1882	IV .	The Transfer of Property Act, 1882.
1885	XIII .	The Indian Telegraph Act, 1885.
1886	VI .	The Births, Deaths and Marriages Registration Act, 1886.
1886	XI .	The Indian Tramways Act, 1886.
1890	I .	The Revenue Recovery Act, 1890.
1890	VI .	The Charitable Endowments Act, 1890.
1890	IX .	The Indian Railways Act, 1890.
1895	XV .	The Crown Grants Act, 1895.
1897	III .	The Epidemic Diseases Act, 1897.
1897	X .	The General Clauses Act, 1897.
1897	XIV .	The Indian Short Titles Act, 1897.
1898	VI .	The Indian Post Office Act, 1898.
1899	II .	The Indian Stamp Act, 1899.
1899	IV .	The Government Buildings Act, 1899.
1913	VII .	The Indian Companies Act, 1913.
1914	IX .	The Local Authorities Loans Act, 1914.
1916	XV .	The Hindu Disposition of Property Act, 1916.
1917	V .	The Destruction of Records Act, 1917.
1918	II .	The Cinematograph Act, 1918.
1920	X .	The Indian Securities Act, 1920.
1920	XXXIX	The Indian Elections Offences and Inquiries Act, 1920.
1923	III .	The Cotton Transport Act, 1923.
1923	XIX .	The Indian Official Secrets Act, 1923.

THE SECOND SCHEDULE—*contd.*

Year.	Number.	Short Title.
1924	XIII	The Indian (Specified Instruments) Stamp Act, 1924.
1925	IV	The Indian Soldiers (Litigation) Act, 1925.
1925	XII	The Cotton Ginning and Pressing Factories Act, 1925.
1925	XIX	The Provident Funds Act, 1925.
1927	XVI	The Indian Forest Act, 1927.
1928	XII	The Hindu Inheritance (Removal of Disabilities) Act, 1928.
1929	II	The Hindu Law of Inheritance (Amendment) Act, 1929.
1930	XXX	The Hindu Gains of Learning Act, 1930.
1936	V	The Decrees and Orders Validating Act, 1936.

THE THIRD SCHEDULE.

[See section 2 (2).]

Acts Amended.

Name of Act.	Amendments.
The Code of Civil Procedure, 1908 (Act V of 1908).	<p>In section 7 and in rule 1 of Order L in the First Schedule,—</p> <p>(a) after the figures " 1887 " the words and figures " or under the Berar Small Cause Courts Law, 1905 " shall be inserted, and</p> <p>(b) for the words " under that Act " the words " under the said Act or Law " shall be substituted.</p>
The Indian Limitation Act, 1908 (IX of 1908).	In Article 161 of the First Schedule, the word " Provincial " in both places where it occurs, shall be omitted, and after the words " Small Causes ", where they occur for the first time, the brackets and words "(other than a Presidency Small Cause Court)" shall be inserted.

THE FOURTH SCHEDULE.

THE FOURTH SCHEDULE.

(See section 4.)

Acts which have ceased to have effect and are repealed in Berar.

Year.	Number.	Short Title.
1841	XIX .	The Succession (Property Protection) Act, 1841.
1847	XX .	The Indian Copyright Act, 1847.
1860	IX .	The Employers and Workmen (Disputes) Act, 1860.
1865	X .	The Indian Succession Act, 1865.
1865	XXI .	The Parsi Intestate Succession Act, 1865.
1881	V .	The Probate and Administration Act, 1881.
1881	VI .	The District Delegates Act, 1881.
1889	VII .	The Succession Certificate Act, 1889.
1911	XII .	The Indian Factories Act, 1911.
1912	V .	The Provident Insurance Societies Act, 1912.
1912	VI .	The Indian Life Assurance Companies Act, 1912.
1914	VIII .	The Indian Motor Vehicles Act, 1914.
1919	X .	The Excess Profits Duty Act, 1919.
1923	X .	The Indian Paper Currency Act, 1923.
1926	XIX .	The Indian Finance Act, 1926.
1927	V .	The Indian Finance Act, 1927.
1928	XX .	The Indian Insurance Companies Act, 1928.
1929	X .	The Indian Census Act, 1929.
1933	XIII .	The Safeguarding of Industries Act, 1933.
1935	..	The Criminal Law Amendment Act, 1935.
1936	I .	The Italian Loans and Credits Prohibition Act, 1936.

THE ASSAM RIFLES ACT, 1941.

Act No. V of 1941.¹

[17th March, 1941.]

An Act to provide for the regulation of and the maintenance of discipline
in the Assam Rifles.

WHEREAS it is expedient to provide for the regulation of and the maintenance of discipline in the Assam Rifles ;

It is hereby enacted as follows :—

1. *Short title, extent and application.*—(1) This Act may be called the Assam Rifles Act, 1941.

(2) It extends to the whole of Assam and applies to all members of the Assam Rifles wherever they may be serving.

¹For Statement of Objects and Reasons, see Gazette of India, 1940, Pt. V, p. 62.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(1) “ active service ” means service at outposts, or against hostile tribes or other persons in the field ;

(2) “ Commandant ” or “ Assistant Commandant ” means a person appointed by the Central Government to be Commandant or an Assistant Commandant of the Assam Rifles ;

(3) “ District Magistrate ” includes a Deputy Commissioner, the Superintendent of the Lushai Hills, the Political Agent in Manipur and the Political Officer of the Sadiya and of the Balipara Frontier Tracts ;

(4) “ rifleman ” means a person appointed as such under section 4 after he has signed the statement in the Schedule in accordance with the provisions of sub-section (2) of section 4, and includes a rifleman appointed under the Assam Rifles Act, 1920 (Assam Act I of 1920) and a Military Police Officer appointed under the Eastern Bengal and Assam Military Police Act, 1912 (E. B. & A. Act 3 of 1912) ;

(5) “ superior officer ” means, in relation to any rifleman,—

(a) an officer of a higher class than, or of a higher grade in the same class as, himself, and

(b) any Assistant Commandant or Commandant ;

(6) the expressions “ reason to believe ”, “ criminal force ”, “ assault ”, “ fraudulently ” and “ voluntarily causing hurt ” have the meanings assigned to them respectively in the Indian Penal Code (XLV of 1860).

3. General superintendence and control of the force.—General superintendence and control of the Assam Rifles shall be exercised by such person or authority as the Central Government may appoint in this behalf, and, in the exercise of such superintendence and control, the person or authority so appointed shall be governed by such rules and orders as the Central Government may make in this behalf.

4. Appointment and discharge.—(1) The appointment of all riflemen shall rest with the Commandant.

(2) Before any person is appointed to be a rifleman, the statement in the Schedule shall be read and if necessary explained to him in the presence of a Magistrate, Commandant or Assistant Commandant, and shall be signed by him in acknowledgment of its having been so read to him.

(3) A rifleman shall not be entitled to be discharged except in accordance with the terms of the statement which he has signed under this Act or under the Assam Rifles Act, 1920 (Assam Act I of 1920).

5. Classes and rank.—There may be all or any of the following classes of Riflemen, who shall take rank in the order mentioned, namely :—

- (i) Subadars-Major,
- (ii) Subadars,
- (iii) Jemadars,
- (iv) Havildars-Major,
- (v) Havildars,
- (vi) Naiks,
- (vii) Buglers and riflemen,

and such grades in each class as the Central Government may from time to time direct.

6. Heinous offences.—A rifleman who—

(a) begins, excites, causes or joins in any mutiny or being present at any mutiny does not use his utmost endeavours to suppress it, or knowing or having reason to believe in the existence of any mutiny does not without delay give information thereof to his Commanding or other superior officer ; or

(b) uses, or attempts to use, criminal force to, or commits an assault on, his superior officer, knowing or having reason to believe him to be such, whether on or off duty ; or

(c) shamefully abandons or delivers up any garrison, fortress, post or guard, which is committed to his charge or which it is his duty to defend ; or

(d) in the presence of an enemy or of any person in arms against whom it is his duty to act, shamefully casts away his arms or his ammunition, or intentionally uses words or any other means to induce any other rifleman to abstain from acting against the enemy. or to discourage any other rifleman from acting against the enemy ; or

(e) directly or indirectly holds correspondence with, or communicates intelligence to, or assists or relieves any person in arms against the State, or omits to discover immediately to his Commanding or other superior officer any such correspondence or communications coming to his knowledge ; or

(f) directly or indirectly assists or relieves with money, victuals or ammunition, or knowingly harbours or protects, any enemy or person in arms against the State ;

or who, while on active service,—

(g) disobeys the lawful command of his superior officer ; or

(h) deserts or attempts to desert the service ; or

(i) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave ; or

(j) leaves his Commanding Officer, or his post or party, to go in search of plunder ; or

(k) quits his guard, picquet, party or patrol without being regularly relieved or without leave ; or

(l) uses criminal force to, or commits an assault on, any person bringing provisions or other necessaries to camp or quarters, or forces a safeguard, or breaks into any house or any other place for plunder, or plunders, destroys or damages any property of any kind ; or

(m) intentionally causes or spreads a false alarm in action or in camp, garrison or quarters ;

shall be punished with transportation for life, or with imprisonment which may extend to fourteen years, or with fine which may extend to five hundred rupees, or with both such imprisonment and fine.

7. Other offences including acts prejudicial to good order and discipline.—A rifleman who—

(a) is in a state of intoxication when on or detailed for any duty, or on parade, or on the line of march ; or

(b) strikes, or forces or attempts to force, any sentry ; or

(c) being in command of a guard, picquet or patrol, refuses to receive any prisoner duly committed to his charge, or, whether in such command or not, releases any prisoner without proper authority or negligently suffers any prisoner to escape ; or

(d) being deputed to any guard, picquet or patrol, quits it without being regularly relieved or without leave ; or

(e) being in command of a guard, picquet or patrol, permits gambling or other behaviour prejudicial to good order and discipline ; or

(f) being under arrest or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority ; or

(g) is grossly insubordinate or insolent to his superior officer in the execution of his office ; or

(h) refuses to superintend or assist in the making of any field work or other military work of any description ordered to be made either in quarters or in the field ; or

(i) strikes or otherwise ill-uses any rifleman subordinate to him in rank or position ; or

(j) being in command at any post or on the march and receiving a complaint that any one under his command has beaten or otherwise maltreated or oppressed any person, or has committed any riot or trespass, fails, on proof of the truth of the complaint, to have due reparation made as far as possible to the injured person and to report the case to the proper authority ; or

(k) designedly or through neglect injures or loses or fraudulently or without due authority disposes of his arms, clothes, tools, equipment, ammunition, accoutrements or other necessities, or any such articles entrusted to him or belonging to any other person ; or

(l) malingers, feigns or produces disease or infirmity in himself, or intentionally delays his cure, or aggravates his disease or infirmity ; or

(m) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or any other person ; or

(n) commits extortion, or without proper authority exacts from any person carriage, portorage, or provisions ; or

(o) designedly or through neglect kills, injures, makes away with, ill-treats or loses his horse, or any animal used in the public service ;

or who, while not on active service,—

(p) disobeys the lawful command of his superior officer ; or

(q) plunders, destroys or damages any property of any kind ; or

(r) being a sentry, sleeps upon his post, or quits it without being regularly relieved or without leave ; or

(s) deserts or attempts to desert the service ; or

(t) neglects to obey any battalion or other orders, or commits any act or omission prejudicial to good order and discipline, such act or omission not constituting an offence under the Indian Penal Code (XLV of 1860) or other Act in force in Assam,

shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to two hundred rupees, or with both.

8. Minor offences and punishments.—(1) A District Magistrate or a Commandant, or subject to the control of the Commandant, an Assistant Commandant, or subject to the control of the Commandant an officer not below the rank of a Jemadar commanding a separate detachment or an outpost or in temporary command at the headquarters of a District during the absence of the District Magistrate, Commandant and Assistant Commandant, may, without a formal trial, award to any rifleman below the rank of a Naik, who is subject to his authority, any of the following punishments for the commission of any petty offence against discipline, which is not otherwise provided for in this Act, or

which is not of a sufficiently serious nature to call for prosecution before a criminal Court, that is to say,—

(a) imprisonment in the Quarter Guard, or such other place as may be considered suitable, for a term which may extend to twenty-eight days when the order is passed by a District Magistrate or a Commandant or to seven days when it is passed by any other officer ;

(b) punishment drill, extra guard, fatigue or other duty, not exceeding twenty-eight days in duration, with or without confinement to lines ;

(c) forfeiture of pay and allowances for a period not exceeding twenty-eight days.

(2) Any of the punishments specified in sub-section (1) may be awarded separately or in combination with any one or more of the others, but no award or awards including imprisonment and confinement to lines shall exceed twenty-eight consecutive days.

9. *Manner of imprisonment.*—Any rifleman sentenced under this Act to imprisonment for a period not exceeding three months shall, when he is also dismissed from the Assam Rifles, be imprisoned in a civil Jail, but when he is not also dismissed from the Assam Rifles he may, if the convicting Court or the District Magistrate so directs, be confined in the Quarter Guard or such other place as the Court or Magistrate may consider suitable.

10. *Privileges of Commandants and Assistant Commandants.*—A Commandant or Assistant Commandant shall be entitled to all the privileges which a police officer has under sections 42 and 43 of the Police Act, 1861 (V of 1861), section 125 of the Indian Evidence Act, 1872 (I of 1872), and any other enactment for the time being in force.

11. *Members of the Assam Rifles to be deemed part of His Majesty's Army for certain purposes.*—For the purposes of sections 128, 130 and 131 of the Code of Criminal Procedure, 1898 (V of 1898), a Commandant, Assistant Commandant, Subadar-Major, Subadar or Jemadar of the Assam Rifles shall be deemed to be an officer, a Havildar-Major, Havildar or Naik shall be deemed to be a non-commissioned officer and a bugler or rifleman shall be deemed to be a soldier of His Majesty's Army.

12. *Power of Central Government to make rules.*—The Central Government may, as regards the Assam Rifles, make such orders and rules consistent with this Act, as it thinks expedient, relative to the several matters respecting which the Inspector General of Police, with the approval of the Provincial Government, may, as regards the Police Force, frame orders and rules under section 12 of the Police Act, 1861 (V of 1861).

13. *Cesser of Assam Act I of 1920 and of appointment of rifle-men as police officers.*—The Assam Rifles Act, 1920 (Assam Act I of 1920), shall cease to apply to the Assam Rifles and to riflemen, and all riflemen shall, on the commencement of this Act, cease to be police officers under the Police Act, 1861 (V of 1861).

THE SCHEDULE.

STATEMENT.

[See sections 2 (4) and 4 (2).]

1. After you have served for four years in the first instance in the Assam Rifles you have the option of extending the term of your service in the Assam Rifles indefinitely, so long as the Commandant is satisfied with your services, or of claiming your discharge at any time, making your application through the officer to whom you may be subordinate, to a Commandant of the Assam Rifles or to the Magistrate of the District in which you may be serving ; and you will be granted your discharge after two months from the date of your application, unless you are on active service or unless your discharge would

cause the vacancies in the Assam Rifles to exceed one-tenth of the sanctioned strength. In either of the above cases you must continue to serve in the Assam Rifles until the objection is waived by competent authority or removed.

2. On your enlistment, appointment or training as a musician (piper, drummer, or bandsman), bugler, signaller, writer, soldier-clerk, havildar-compounder or as an artificer (armourer, mochi, carpenter, stone-mason, or motor driver) you must, in spite of the provisions of paragraph 1 above, serve in the Assam Rifles for eight years from the date of your enlistment or the completion of your training, as the case may be.

3. On your deputation for a specialist course at an Army Training Centre you must sign an undertaking, before leaving the battalion to proceed on the course, that you will not, in spite of the provisions of paragraph 1 above, apply for discharge during the four years following your attendance at the Army Training Course.

4. On your deputation to the Educational or Veterinary Course you must sign an undertaking, before leaving the battalion to proceed on the Course, that you will not, in spite of the provisions of paragraph 1 above, apply for discharge during the eight years following your attendance at the Course.

5. In the event of your re-enlistment after you have been discharged, you will have no claim to reckon for pension or any other purpose your service previous to your discharge.

Signature of rifleman in acknowledgment of the above having been read to him. A. B.

Signed in my presence after I had ascertained that A. B. understood the purport of what he signed. C. D.

Magistrate, Commandant or Assistant Commandant.

THE INDIAN FINANCE ACT, 1941.

Act No. VII of 1941.¹

[31st March, 1941.]

An Act to fix the duty on salt manufactured in, or imported by land into certain parts of British India, to vary the rate of the excise duty on matches leviable under the Matches (Excise Duty) Act, 1934, to vary the rate of the excise duty on mechanical lighters leviable under the Mechanical Lighters (Excise Duty) Act, 1934, to vary the rate of the duty on artificial silk yarn and thread leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, to fix rates of income-tax and super-tax and to continue the charge and levy of excess profits tax and fix the rate at which excess profits tax shall be charged.

WHEREAS it is expedient to fix the duty on salt manufactured in or imported by land into, certain parts of British India, to vary the rate of the excise duty on matches leviable under the Matches (Excise Duty) Act, 1934 (XVI of

¹For Statement of Objects and Reasons, see Gazette of India, 1941, Pt. V, p. 76.

The Act has been applied to Br Baluchistan, see Notfn. No. 56-F., dated the 8th April, 1941, Gaz. of India, 1941, Pt. I, p. 506, to the partially excluded areas in Madras, see Madras Govt. Notfn. No. 40, dated the 6th May, 1941, to the Chittagong Hill-tracts, with effect from 1st April, 1941, subject to certain exceptions, see Ben. Govt. Notfn. No. 39-S., dated the 2nd May, 1941, and to the Darjeeling Dist. and the partially excluded areas of the Mymensingh Dist., with effect from 1st April, 1941, see Ben. Govt. Notfn. No. 7079-F.B., dated the 5th July 1941.

1934), to vary the rate of the excise duty on mechanical lighters leviable under the Mechanical Lighters (Excise Duty) Act, 1934 (XXIII of 1934), to vary the rate of the duty on artificial silk yarn and thread leviable under the Indian Tariff Act, 1934 (XXXII of 1934), to fix maximum rates of postage under the Indian Post Office Act, 1898 (VI of 1898), to fix rates of income-tax and super-tax and to continue the charge and levy of excess profits tax and fix the rate at which excess profits tax shall be charged ;

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Indian Finance Act, 1941 .

(2) It extends to the whole of British India.

2. *Fixation of Salt Duty.*—The provisions of section 7 of the Indian Salt Act, 1882 (XII of 1882), shall, in so far as they enable the Central Government to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India, be construed as if, for the year beginning on the 1st day of April, 1941, they imposed such duty at the rate of one rupee and four annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section.

*3. *Excise Duty on Matches.*—For section 4 of the Matches (Excise Duty) Act, 1934 (XVI of 1934), the following section shall be substituted, namely :—

“ 4. The duty payable under section 3 shall be levied at the following rates, namely :—

(a) on matches in boxes or booklets containing on an average not more than eighty—

(i) if the average number is forty or less, at the rate of two rupees per gross of boxes or booklets,

(ii) if the average number is more than forty, but not more than sixty, at the rate of three rupees per gross of boxes or booklets, and

(iii) if the average number is more than sixty, at the rate of four rupees per gross of boxes or booklets ;

(b) on all other matches, at such rate as the Central Government may prescribe.”

*4. *Excise Duty on Mechanical Lighters.*—In section 3 of the Mechanical Lighters (Excise Duty) Act, 1934, (XXIII of 1934), for the words “ one rupee and eight annas ” the words “ three rupees ” shall be substituted.

*5. *Import Duty on Artificial Silk Yarn and Thread.*—In the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), in Item No. 47 (2), for the entry “ 25 per cent, *ad valorem* or 3 annas per lb., whichever is higher ” in the fourth column the following entry shall be substituted, namely :—

“ 25 per cent. *ad valorem* or 5 annas per lb., whichever is higher ”.

6. *Inland Postage rates.*—For the year beginning on the 1st day of April, 1941, the Schedule contained in the Schedule to this Act shall be inserted in the Indian Post Office Act, 1898 (VI of 1898), as the First Schedule to that Act.

*This section came into effect on the 1st March, 1941, by virtue of a declaration inserted in the Bill under the Provisional Collection of Taxes Act, 1931 (XVI of 1931).

7. *Income-tax and Super-tax.*—(1) Subject to the provisions of sub-sections (2) and (3)—

(a) income-tax for the year beginning on the 1st day of April, 1941, shall be charged at the rates specified in Part I of Schedule II to the Indian Finance Act, 1939 increased in each case by a surcharge for the purposes of the Central Government amounting to one-third of each such rate ;

(b) rates of super-tax for the year beginning on the 1st day of April, 1941, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (XI of 1922), be the rates specified in Part II of Schedule II to the Indian Finance Act, 1939, increased—

(i) in the case of the rate applicable to a company, by a surcharge amounting to one-third of that rate, and

(ii) in the case of every other rate, by a surcharge for the purposes of the Central Government amounting to one-third of each such rate :

Provided that in the case of an association of persons being a co-operative society, other than the Sanikatta Saltowners' Society in the Bombay Presidency, for the time being registered under the Co-operative Societies Act, 1912 (II of 1912), or under an Act of the Provincial Legislature governing the registration of Co-operative Societies, the rates of super-tax for the year beginning on the 1st day of April, 1941, shall be the rates of super-tax specified in the proviso to clause (b) of sub-section (1) of section 7 of the Indian Finance Act, 1940 (XVI of 1940), increased in each case by a surcharge for the purposes of the Central Government amounting to one-third of each such rate.

(2) In making any assessment for the year ending on the 31st day of March, 1942,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head “Salaries” or under the head “Interest on Securities” or any income from dividends in respect of which he is deemed under section 49B of the Indian Income-tax Act, 1922 (XI of 1922), to have paid income-tax imposed in British India, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1940 (XVI of 1940), read with sub-section (1) of section 3 of the Indian Finance (No. 2) Act, 1940, on his total income the same proportion as the amount of such inclusions bears to his total income ;

(b) where the total income of an assessee, not being a company, includes any income chargeable under the head “Salaries” on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Indian Income-tax Act, 1922 (XI of 1922), the super-tax payable by the assessee on that portion of his total income which consists of such inclusions shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1940 (XVI of 1940), read with sub-section (1) of section 3 of the Indian Finance (No. 2) Act, 1940, on his total income the same proportion as the amount of such inclusions bears to his total income.

(3) In cases to which section 17 of the Indian Income-tax Act, 1922 (XI of 1922) applies, the tax chargeable shall be determined as provided in that section but with reference to the rates imposed by sub-section (1) of this section, and in accordance with the provisions of sub-section (2) of this section where applicable.

(4) For the purposes of this section and of the rates of tax imposed thereby, the expression “total income” means total income as determined for the

purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922 (XI of 1922).

8. *Continuance of and rate of Excess Profits Tax.*—(1) In sub-clause (a) of clause (6) of section 2 of the Excess Profits Tax Act, 1940, for the words and figures “31st day of March, 1941,” the words and figures “31st day of March, 1942,” shall be substituted.

(2) The excess profits tax imposed by section 4 of the Excess Profits Tax Act, 1940 (XV of 1940), shall, in respect of any chargeable accounting period beginning after the 31st day of March, 1941, be an amount equal to sixty-six and two-thirds per cent. of the amount by which the profits of the business during that chargeable accounting period exceed the standard profits.

THE SCHEDULE.

Schedule to be inserted in the Indian Post Office Act, 1898.

[See section 6.]

“THE FIRST SCHEDULE.

INLAND POSTAGE RATES.

(See section 7.)

Letters.

For a weight not exceeding one tola	One and a quarter annas.
For every tola, or fraction thereof, exceeding one tola	Half an anna.

Postcards.

Single	Nine pies.
Reply	One and a half annas.

Books, Pattern and Sample Packets.

For the first five tolas or fraction thereof	9 pies,
For every additional two and a half tolas, or fraction thereof, in excess of five tolas	Three pies.

Registered Newspapers.

For a weight not exceeding ten tolas	Quarter of an anna.
For a weight exceeding ten tolas and not exceeding twenty tolas	Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas	Half an anna.
In the case of more than one copy of the same issue of a registered newspaper being carried in the same packet—	
For a weight not exceeding ten tolas	Half an anna.
For every additional five tolas, or fraction thereof, in excess of ten tolas	Quarter of an anna.
Provided that such packet shall not be delivered at any addressee's residence but shall be given to a recognised agent at the post office.	

Parcels.

For a weight not exceeding forty tolas	Four annas,
For every forty tolas, or fraction thereof, exceeding forty tolas	Four annas.”

THE TYRES (EXCISE DUTY) ACT, 1941.

Act No. X of 1941.¹

[31st March, 1941.]

An Act to provide for the imposition and collection of an excise duty on tyres.

WHEREAS it is expedient to provide for the imposition and collection of an excise duty on tyres ;

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Tyres (Excise Duty) Act, 1941.

(2) It extends to the whole of British India.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “manufactory” means any premises wherein tyres are manufactured ;

(b) “owner” includes any person expressly or impliedly authorised by an owner of a manufactory to be his agent in respect of the manufactory ;

(c) “tyre” means a pneumatic tyre in the manufacture of which rubber is used, and includes the inner tube and the outer cover of such a tyre.

3. *Imposition of and amount of duty.*—(1) A duty of excise at the rate of ten per cent. on the value thereof shall be levied on all tyres manufactured in any manufactory in British India and issued out of such manufactory on or after the 1st day of April, 1941, and shall be payable by the owner of the manufactory.

(2) For the purposes of levying the duty imposed by sub-section (1) the Central Government may, by notification in the official Gazette, fix the values of tyres or of any class of tyres ; and where no such value has been fixed the value of a tyre shall be deemed to be the wholesale cash price, less trade discount, for which a tyre of the like kind and quality is sold or is capable of being sold by a manufactory without any abatement or deduction whatever except the amount of the excise duty payable on it at the time of issue out of the manufactory.

4. *Recovery of duty with penalty.*—(1) If any duty payable under section 3 is not paid within the time fixed by a notice issued in accordance with any rules made in this behalf under this Act, it shall be deemed to be an arrear, and the authority to which such duty is payable may, in lieu thereof, recover any sum, not exceeding double the amount of the duty unpaid, which such authority may in its discretion think it reasonable to require.

(2) An arrear of duty, or any sum recoverable in lieu thereof under this section, shall be recoverable as an arrear of land-revenue and shall be recoverable in addition to, and not in substitution for, any other penalty incurred under this Act.

5. *Issue from manufactory.*—(1) No person shall issue any tyres out of any manufactory except in accordance with the provisions of rules made under section 8 regulating such issue, or, until such rules are made, in accordance with the general or special orders of the Central Government.

¹For Statement of Objects and Reasons, see Gazette of India, 1941, Pt. V, p. 78.

The Act has been applied to Br. Baluchistan, see Notfn. No. 50-F., dated the 1st April 1941, Gaz. of India, 1941, Pt. I, p. 467.

(2) Whoever contravenes any such rule or order shall be punishable with fine which may extend to one thousand rupees or to a sum double the amount of the duty on any tyres issued in contravention of such rule or order, whichever is greater.

6. *Application of the provisions of Act VIII of 1878 to the duty on tyres.*—The Central Government may, by notification in the official Gazette, declare that any of the provisions of the Sea Customs Act, 1878, (VIII of 1878), relating to the levy of and exemption from customs duties, drawback of duty, warehousing, offences and penalties, confiscation and procedure relating to offences and appeals shall, with such modifications and alterations as it may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duty imposed by sub-section (1) of section 3.

7. *Power of Central Government to prohibit import.*—The Central Government may, by notification in the official Gazette, prohibit absolutely, or with such exceptions as it thinks fit, the bringing of tyres into British India from the territory of any specified Indian State.

8. *Power to make rules.*—(1) The Central Government may, by notification in the official Gazette, make rules—

(a) imposing on owners of manufactories the duty of furnishing returns and keeping records and books, and prescribing the form of such returns, records and books and the particulars to be contained therein, and the manner in which the same are to be verified ;

(b) regulating the issue of tyres out of manufactories ;

(c) providing for the assessment and collection of the duty, the issue of notices requiring payment, the authority to whom the duty shall be payable and the recovery of arrears ;

(d) authorising and providing for the inspection of manufactories ; and

(e) generally for carrying into effect the provisions of this Act.

(2) Such rules may provide that any breach thereof shall be punishable with fine which may extend to five hundred rupees :

Provided that the breach of any rule made under clause (b) of sub-section (1) shall be punishable with the punishment provided for an offence against section 5.

THE DELHI RESTRICTION OF USES OF LAND ACT, 1941.

Act No. XII of 1941.¹

[8th April, 1941.]

An Act to regulate in the Province of Delhi the use of land for purposes other than agricultural purposes.

WHEREAS it is expedient to regulate in the Province of Delhi the use of land for purposes other than agricultural purposes :

It is hereby enacted as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Delhi Restriction of Uses of Land Act, 1941.

(2) It extends to the Province of Delhi.

¹For Statement of Objects and Reasons, see Gazette of India, 1941, Pt. V, p. 69; and for Report of Select Committee, see *ibid*, p. 110.

(3) It shall come into force on such date¹ as the Central Government may, by notification in the official Gazette, appoint.

2. *Definitions*.—In this Act, unless there is anything repugnant in the subject or context,—

(1) “agriculture” includes horticulture and the planting and upkeep of orchards ;

(2) “building” has the same meaning as in clause (2) of section 3 of the Punjab Municipal Act, 1911 ; (Punj. Act III of 1911.)

(3) “Chief Commissioner” means the Chief Commissioner of Delhi ;

(4) “Deputy Commissioner” means the Deputy Commissioner of Delhi and includes any authority, not being an officer employed by the Delhi Improvement Trust, appointed by the Chief Commissioner, by notification in the official Gazette, to perform all or any of the functions of the Deputy Commissioner under this Act ;

(5) “place of worship” includes an *imambara*, *dargah*, *karbala* or *takya* ;

(6) “prescribed” means prescribed by rules made under this Act ;

(7) “road” means a metalled road maintained by the Central Government or by a local authority : and

(8) the expression “to erect or re-erect” in relation to any building has the same meaning as in clause (5) of section 3 of the Punjab Municipal Act, 1911. (Punj. Act III of 1911.)

3. *Declaration of controlled area*.—(1) The Chief Commissioner may, with the previous sanction of the Central Government, by notification in the official Gazette, declare any land adjacent to and within a distance of four hundred and forty yards from the centre line of any road to be a controlled area for the purposes of this Act.

(2) Not less than three months before making a declaration under sub-section (1) the Chief Commissioner shall cause to be published in the official Gazette and in at least two newspapers printed in a language other than English a notification stating that he proposes, with the previous sanction of the Central Government, to make such a declaration and specifying therein the boundaries of the land in respect of which the declaration is proposed to be made, and copies of every such notification or of the substance thereof shall be published by the Deputy Commissioner in such manner as he thinks fit at his office and in every revenue estate of which any part is included within the said boundaries.

(3) Any person interested in any land included within the said boundaries may, at any time before the expiration of thirty days from the last date on which a copy of such notification is published by the Deputy Commissioner, object to the making of the declaration or to the inclusion of his land or any part of it within the said boundaries.

(4) Every objection under sub-section (3) shall be made to the Deputy Commissioner in writing, and the Deputy Commissioner shall give to every person so objecting an opportunity of being heard either in person or by pleader, and shall after all such objections have been heard and after such further enquiry, if any, as he thinks necessary, forward to the Chief Commissioner the record of the proceedings held by him together with a report setting forth his recommendations on the objections.

(5) If before the expiration of the time allowed by sub-section (3) for the filing of objections no objection has been made, the Chief Commissioner may proceed at once to the making of a declaration under sub-section (1). If any such objections have been made, the Chief Commissioner shall consider

¹The 28th June, 1941, see Gaz. of India, 1941, Pt. I, p. 920.

the record and the report referred to in sub-section (4) and shall hear any parties applying to be heard and may either—

(a) abandon the proposal to make a declaration under sub-section (1) or

(b) make such a declaration in respect of either the whole or a part or parts of the land included within the boundaries specified in the notification under sub-section (2).

(6) For the purposes of sub-section (3) a person shall be deemed to be interested in land if he is a "person interested" as defined in clause (b) of section 3 of the Land Acquisition Act, 1894, (I of 1894), for the purposes of that Act or where the land is land occupied by or for the purposes of a mosque, imambara, dargah, karbala, takya or Muslim graveyard, if he is a Muslim.

(7) A declaration made under sub-section (1) shall, unless and until it is withdrawn, be conclusive evidence of the fact that the area to which it relates is a controlled area.

4. *Plans of controlled areas to be deposited at certain offices.*—(1) The Deputy Commissioner shall deposit at his office and at the office of the Municipal Committee, New Delhi, and at such other places as he considers necessary, plans showing all lands declared to be controlled areas for the purposes of this Act, and setting forth the nature of the restrictions applicable to the land in any such controlled area.

(2) The plans so deposited shall be available for inspection by the public free of charge at all reasonable times.

5. *Restrictions on building, etc., in a controlled area.*—No person shall erect or re-erect any building, or make or extend any excavation, or lay out any means of access to a road in a controlled area except with the previous permission of the Deputy Commissioner in writing.

6. *Application for permission to build, etc., and the grant or refusal of such permission.*—(1) Every person desiring to obtain the permission referred to in section 5 shall make an application in writing to the Deputy Commissioner in such form and containing such information in respect of the building, excavation or means of access to which the application relates as may be prescribed.

(2) On receipt of such application the Deputy Commissioner, after making such enquiry as he considers necessary, shall, by order in writing, either—

(a) grant the permission, subject to such conditions, if any, as may be specified in the order; or

(b) refuse to grant such permission.

(3) When the Deputy Commissioner grants permission subject to conditions under clause (a) of sub-section (2) or refuses to grant permission under clause (b) of sub-section (2), the conditions imposed or the grounds of refusal shall be such as are reasonable having regard to the circumstances of each case.

(4) The Deputy Commissioner shall not refuse permission to the erection or re-erection of a building, not being a dwelling house, if such building is required for purposes subservient to agriculture, nor shall the permission to erect or re-erect any such building be made subject to any conditions other than those which may be necessary to ensure that the building will be used solely for the purposes specified in the application for permission.

(5) The Deputy Commissioner shall not refuse permission to the erection or re-erection of a building which was in existence on the date on which the declaration under sub-section (1) of section 3 was made, nor shall he impose

any conditions in respect of such erection or re-erection unless it involves the addition of one or more storeys to the building or the extension of the plinth area of the building by more than one-eighth of the original plinth area, or there is a probability that the building will be used for a purpose other than that for which it was used on the date on which the said declaration was made.

(6) If at the expiration of a period of three months after an application under sub-section (1) has been made to the Deputy Commissioner no order in writing has been passed by the Deputy Commissioner permission shall be deemed to have been given without the imposition of any conditions.

(7) The Deputy Commissioner shall maintain a register with sufficient particulars of all permissions given by him under this section and the register shall be available for inspection without charge by all persons interested and such persons shall be entitled to take extracts therefrom.

7. *Right of appeal.*—(1) Any person aggrieved by an order of the Deputy Commissioner under sub-section (2) of section 6 granting permission subject to conditions or refusing permission may within thirty days from the date of such order prefer an appeal to the Chief Commissioner.

(2) The order of the Chief Commissioner on appeal shall be final.

8. *Compensation.*—(1) No person shall be entitled to claim compensation under this or any other Act for any injury, damage or loss caused or alleged to have been caused by an order—

(a) refusing permission to make or extend an excavation, or granting such permission but imposing conditions on the grant, or

(b) refusing permission to lay out a means of access to a road, or granting such permission but imposing conditions on the grant, or

(c) granting permission to erect or re-erect a building but imposing conditions on the grant.

(2) When an order has been made refusing permission to erect or re-erect a building any person who has exercised the right of appeal given by sub-section (1) of section 7 may, within three months of the date of the order of the Chief Commissioner, make to the Chief Commissioner a claim for compensation on the ground that his interest in the land concerned is injuriously affected by the said order :

Provided that no claim for compensation may be made under this sub-section in respect of any land situated in a controlled area adjoining a road which has been constructed after the commencement of this Act or which was not at the commencement of this Act a road within the meaning of clause 1[(7)] of section 2.

(3) On receipt of a claim under sub-section (2) the Chief Commissioner shall either proceed to acquire the land concerned under the Land Acquisition Act, 1894, (I of 1894), or transfer the claim for disposal to an officer exercising the powers of a Collector under the said Act :

Provided that in case the Chief Commissioner decides to acquire the land, the claimant shall be entitled to be repaid by the acquiring authority the amount of expense which he may have properly incurred in connection with the preparation and submission of his claim for compensation under this section, and in default of agreement such amount shall be determined by the authority deciding the value of the land in the proceedings under the Land Acquisition Act, 1894.

(4) Nothing in this section shall be deemed to preclude the settlement of a claim by mutual agreement.

¹Subst., Repealing and Amending Act, 1942 (25 of 1942).

9. Compulsory acquisition.—If the Chief Commissioner decides to acquire the land under the Land Acquisition Act, 1894, (I of 1894), then, notwithstanding anything contained in that Act,—

- (i) proceedings under section 5A of that Act shall not be required ;
- (ii) the notification under section 6 of that Act shall be published within six months from the date of institution of the claim, failing which the claim shall be transferred for disposal to an officer exercising the powers of a Collector under that Act ;
- (iii) the market value of the land shall be assessed as though no declaration under section 3 (1) had been made in respect of the area in which it is situated and no restrictions upon its use and development had been imposed, any compensation already paid to the claimant or to any of his predecessors in interest for injurious affection being deducted from the market value as so assessed.

10. Amount of compensation how determined.—(1) When a claim is transferred for disposal under section 8 or section 9 to an officer exercising the powers of a Collector under the Land Acquisition Act, 1894, (I of 1894), such officer shall make an award determining the amount of compensation, if any, payable to the claimant.

(2) The amount of compensation awarded under sub-section (1) shall in no case exceed—

(a) the amount that would have been payable if the land had been acquired under section 9 or

(b) the difference between the market value of the land in its existing condition having regard to the restrictions actually imposed upon its use and development by the order refusing permission to erect or re-erect a building thereon, and its market value immediately before the publication under sub-section (2) of section 3 of the notification in pursuance of which the area in which it is situated was declared to be a controlled area,

and no compensation shall be awarded under sub-section (1)—

(i) unless the claimant satisfies the officer making the award that proposals for the development of the land which at the date of the application under sub-section (1) of section 6 are immediately practicable, or would have been so, if this Act had not been passed, are prevented or injuriously affected by the restrictions imposed under this Act, or

(ii) if and in so far as the land is subject to substantially similar restrictions in force under some other enactment which were so in force at the date when the restrictions were imposed under this Act, or

(iii) if compensation in respect of the same restrictions in force under this Act or of substantially similar restrictions in force under some other enactment has already been paid in respect of the land to the claimant or to any predecessor in interest of the claimant.

(3) The provisions of Parts III, IV, V and VIII of the Land Acquisition Act, 1894, (I of 1894), shall so far as may be apply to an award made under sub-section (1) as though it were an award made under that Act.

11. Saving for other enactments.—Nothing in this Act shall affect the power of any authority to acquire land or to impose restrictions upon the use and development of land under any other enactment for the time being in force.

12. Prohibition of use of any land as a brick-field, etc., without a licence.—

(1) No land within a controlled area shall be used for the purposes of a charcoal-kiln, pottery-kiln or lime-kiln and no land either within or outside

a controlled area shall be used for the purposes of a brick-field or brick-kiln except under, and in accordance with the conditions of, a licence from the Chief Commissioner which shall be renewable annually.

(2) The Chief Commissioner may charge such fees for the grant and renewal of such licences and may impose such conditions in respect thereof as may be prescribed.

(3) No person shall be entitled to claim compensation under this or any other Act for any injury, damage or loss caused or alleged to have been caused by the refusal of a licence under sub-section (1).

13. Offences and penalties.—(1) Any person who—

(a) erects or re-erects any building or makes or extends any excavation or lays out any means of access to a road in contravention of the provisions of section 5 or in contravention of any conditions imposed by an order under section 6 or section 7, or

(b) uses any land in contravention of the provisions of sub-section (1) of section 12,

shall be punishable with fine which may extend to five hundred rupees and, in the case of a continuing contravention, with a further fine which may extend to fifty rupees for every day after the date of the first conviction during which he is proved to have persisted in the contravention.

(2) Without prejudice to the provisions of sub-section (1), the Deputy Commissioner may order any person who has committed a breach of the provisions of the said sub-section to restore to its original state or to bring into conformity with the conditions which have been violated, as the case may be, any building or land in respect of which a contravention such as is described in the said sub-section has been committed, and if such person fails to do so within three months of the order may himself take such measures as may appear to him to be necessary to give effect to the order, and the cost of such measures shall be recoverable from such person as an arrear of land-revenue.

14. Trial of offences.—No Court inferior to that of a Magistrate of the first class shall try any offence punishable under this Act.

15. Protection of persons acting under this Act.—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Act.

16. Savings.—Nothing in this Act shall apply to—

(a) the erection or re-erection of buildings upon land included in the inhabited site of any village as defined in the revenue records ;

(b) the erection or re-erection of a place of worship or a tomb or cenotaph or of a wall enclosing a graveyard, place of worship, cenotaph or *samadhi* on land which is at the time a notification under sub-section

(2) of section 3 is published by the Chief Commissioner occupied by or for the purposes of such place of worship, tomb, *samadhi*, cenotaph or graveyard ;

(c) excavations (including wells) made in the ordinary course of agricultural operations ;

(d) the construction of an unmetalled road intended to give access to land solely for agricultural purposes.

17. Power to make rules.—(1) The Chief Commissioner may make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide for all or any of the following matters, namely :—

(a) the form in which applications under sub-section (1) of section 6 shall be made and the information to be furnished in such applications ;

(b) the regulation of the laying out of means of access to roads ;

(c) the fees to be charged for the grant and renewal of licences under section 12 and the conditions governing such licences.

(3) All rules made under this section shall be subject to the condition of previous publication, which publication shall be made in the official Gazette and in at least two newspapers printed in a language other than English ; and the date to be specified under clause (3) of section 23 of the General Clauses Act, 1897 (X of 1897), shall not be less than two months from the date on which the draft of the proposed rules was published.

THE MADRAS PORT TRUST (AMENDMENT) ACT, 1941. Act No. XVIII of 1941.¹

[26th November, 1941.]

An Act to alter the constitution of the Board of Trustees of the
 Port of Madras

WHEREAS it is expedient to alter the constitution of the Board of Trustees of the Port of Madras and for this purpose to amend the Madras Port Trust Act, 1905 (Mad. Act II of 1905), in the manner hereinafter appearing :

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Madras Port Trust (Amendment) Act, 1941.

(2) It shall come into force on such ²date as the Central Government may, by notification in the official Gazette, appoint.

2. *Substitution of new section for sections 7 and 8.* *Madras Act II of 1905.*—For sections 7 and 8 of the Madras Port Trust Act, 1905 (Mad. Act II of 1905) (hereinafter referred to as the said Act), the following sections shall be substituted, namely :—

“ 7. *Constitution of the Board.*—The Board shall consist of eighteen Trustees, including the Chairman :

Provided that, if the Chairman is absent on leave for more than a fortnight and if another Chairman is appointed to act for him, the absent Chairman shall cease to be a Trustee during the continuance of the acting appointment, but shall again become a Trustee on his return to duty.

8. *Appointment of Trustees.*—(1) The Chairman shall be appointed by the Central Government. Of the remaining Trustees, four, of whom one shall be chosen to represent labour interests, shall be appointed by the Central Government, one shall be appointed by the Provincial Government, four shall be elected by the members for the time being of the Madras Chamber of Commerce, three by the members for the time being of the Southern India Chamber of Commerce, two by the members for the time being of the Southern India Skin and Hide Merchants' Association, one each by the members for the time being of the Madras Trades Association and the Andhra Chamber of Commerce and one by the Corporation of Madras.

¹For the Statement of Objects and Reasons, see Gazette of India 1941, Pt. V, p 72: and for Report of Select Committee, see *ibid.* p. 178.

²The 1st April 1942, see Gaz. of India, 1942, Pt. I, p. 651.

(2) The Trustee appointed to represent labour interests shall be chosen after consultation with the registered trade unions, if any, composed of persons employed in the Port.

(3) The Chairman of the Chamber or Association concerned in making an election under sub-section (1) and the Commissioner of the Corporation of Madras shall report to the Central Government the name of each person elected as a Trustee."

3. *Amendment of section 13, Madras Act II of 1905.*—In section 13 of the said Act, after the word "concerned" the words "or by the Corporation of Madras" shall be inserted, and for the words "the Central Government" the words "the authority by which he was appointed" shall be substituted.

4. *Transition from existing constitution of Board of Trustees.*—The appointments and elections referred to in section 8 of the said Act as amended by this Act, and the publication referred to in section 9 of the said Act may be made at any time after the passing of this Act and before this Act comes into force, but the Trustees so appointed and elected shall not assume office until this Act comes into force, and on the coming into force of this Act the term of office of the Trustees then holding office shall expire.

THE MINES MATERNITY BENEFIT ACT, 1941.

Act No. XIX of 1941.¹

[26th November, 1941.]

An Act to regulate the employment of women in mines for a certain period before and after childbirth and to provide for payment of maternity benefit to them.

WHEREAS it is expedient to regulate the employment of women in mines for a certain period before and after childbirth and to provide for payment of maternity benefit to them ;

It is hereby enacted as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Mines Maternity Benefit Act, 1941.

(2) It extends to the whole of British India.

(3) It shall come into force on such ²date as the Central Government may, by notification in the official Gazette, appoint.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) "child" includes a still-born child ;

(b) "Chief Inspector", "Inspector", "employed", "mine" and "owner" have the meanings assigned, respectively, to these expressions in section 3 of the Indian Mines Act, 1923 (IV of 1923) ;

(c) "manager" means the manager of the mine appointed in accordance with the provisions of the Indian Mines Act, 1923 (IV of 1923) ;

(d) "maternity benefit" means the payment referred to in section 5 :

(e) "prescribed" means prescribed by rules made under this Act.

¹For Statement of Objects and Reasons, see Gazette of India, 1941, Pt. V, p. 139.

The Act has been applied to Br. Baluchistan, see Notfn. No. 20-F., dated the 5th February 1942, Gaz. of India, 1942, Pt. I, p. 264.

²The 28th December 1942, see Gaz. of India, 1943, Pt. I, p. 32.

3. Prohibition of employment of, and work by women during certain period.—No owner or manager of a mine shall knowingly employ a woman and no woman shall engage in employment in any mine during the four weeks following the day on which she is delivered of a child.

4. Right to obtain leave of absence in pregnancy and after delivery.—(1) If any woman employed in a mine who is pregnant gives notice either orally or in writing in the prescribed form to the manager of the mine that she expects to be delivered of a child within one month from the date of such notice, the manager shall permit her if she so desires to absent herself from work up to the day of her delivery and such absence shall be treated as a period of authorised absence on leave :

Provided that the manager may, on undertaking to defray the cost of such examination, require the woman to be examined by a qualified medical practitioner or midwife, and, if the woman refuses to submit to such examination or is certified on such examination as not pregnant or not likely to be delivered of a child within one month, he may refuse such permission.

(2) Any woman employed in a mine who is delivered of a child shall be permitted by the manager to absent herself from work for a period of four weeks from the date of her delivery, and her absence during such period shall be deemed to be authorised absence on leave if within seven days of her delivery she has given or sent to the manager notice of the delivery and of the date of delivery.

5. Right to and liability for payment of maternity benefit.—Every woman employed in a mine who has been continuously employed in that mine or in mines belonging to the owner of that mine for a period of not less than six months preceding the date of her delivery shall, if she complies with the conditions imposed by this Act, be entitled to receive, and the owner of the mine shall be liable to make to her, in accordance with the provisions of this Act, a payment at the rate of eight annas a day for every day ¹ * * * during the four weeks immediately preceding and including the day of her delivery and for each day of the four weeks following her delivery.

²[Provided that no such payment shall be made for any day on which she attends work and receives payment therefor during the four weeks preceding her delivery].

Explanation.—Periods of casual absence as defined by rules made under section 15 or authorised absence on account of illness or leave shall count as employment in determining whether employment has been continuous.

6. Payment of bonus.—(1) The Central Government may by rules made under section 15 provide that a woman entitled to maternity benefit under this Act shall, if at the time of her delivery she utilized the services of a qualified midwife or other trained person, receive in addition to the maternity benefit due to her a bonus not exceeding in amount three rupees :

Provided that she shall not receive such bonus if at the place chosen by her for her confinement she would have been entitled free of charge to the services of a qualified midwife or other trained person provided by the owner of the mine.

(2) Such rules may further provide for the determination by the Provincial Government of the amount of the bonus, and of the qualifications which shall be possessed by qualified midwives and other trained persons for the purposes of this section.

¹Words omitted, Mines Maternity Benefit (Amdt.) Act, 1943 (18 of 1943).

²Added, *ibid.*

7. *Notice of delivery to be given to manager.*—A woman entitled to maternity benefit under this Act, unless she has given the notice referred to in sub-section (1) of section 4, shall on being delivered of a child give notice of her delivery in the prescribed manner to the manager before the expiry of seven days from the date of her delivery, and shall before the expiry of six months from such date furnish proof of the prescribed nature to the manager both of her delivery and of the date of her delivery :

Provided that a woman giving notice under section 4 or this section may therein nominate a person for the purposes of sub-section (2) of section 9.

8. *Payment of maternity benefit.*—(1) Where a woman entitled to maternity benefit has given the notice referred to in sub-section (1) of section 4 and has obtained permission to absent herself from work to the date of her delivery, the manager shall either at once or within three days pay to her maternity benefit for four weeks in advance.

(2) A woman entitled to maternity benefit who has been delivered of a child shall, on furnishing the proof referred to in section 7,—

(a) if she has received an advance payment under sub-section (1), be paid the balance of the maternity benefit due to her at the end of the fourth week from the date of her delivery or within three days of the furnishing of proof, whichever date is later ;

(b) if she has received no such advance payment,—

(i) if the proof is furnished before the end of the fourth week from the date of delivery, be paid at once or within three days so much of the maternity benefit as is then due to her, and be paid the balance at the end of the said fourth week ;

(ii) if the proof is furnished after the end of the fourth week from the date of delivery, be paid at once or within three days the whole amount of the maternity benefit due to her.

9. *Disposal of maternity benefit in case of death of woman entitled to receive it.*—(1) If a woman entitled to maternity benefit who has received an advance under sub-section (1) of section 8 dies before being delivered of the child, the advance shall not be recoverable.

(2) If a woman entitled to maternity benefit having been delivered of a child dies before payment of the maternity benefit, or where an advance under sub-section (1) of section 8 has been made, of the balance of the maternity benefit due to her is made, the amount due to her up to the date of her death shall, on the prescribed proof of the birth and date of the birth of the child and of the death and date of death of the woman being furnished at any time before the expiry of six months from the date of delivery, be paid if the child is living to the person who undertakes the care of the child, and if the child is not living to the person nominated by her under the proviso to section 7 or if she has made no such nomination to the legal representative of the deceased woman.

10. *Prohibition of dismissal during or on account of absence from work owing to confinement.*—(1) When a woman absents herself from work in accordance with section 3, or has obtained permission to absent herself in accordance with section 4, it shall be unlawful for the manager to dismiss her during or on account of such absence, or to give notice of dismissal on such a day that the notice will expire during such absence.

(2) The dismissal of a woman at any time within six months before she is delivered of a child, if the woman but for such dismissal would have been entitled to maternity benefit under this Act, shall not have the effect of depriving her of that maternity benefit if the Chief Inspector is satisfied that her dismissal was without sufficient cause.

11. Power of Chief Inspector or Inspector to direct payments to be made.—(1) Any woman claiming that maternity benefit to which she is entitled under this Act and any person claiming that a payment due under sub-section (2) of section 9 is improperly withheld may make a complaint to the Chief Inspector or any Inspector.

(2) On receipt of such complaint or on his own motion without any such complaint being made, the Chief Inspector or Inspector may make inquiry or cause an inquiry to be made, and if satisfied that a payment has been wrongfully withheld may direct the payment to be made in accordance with his orders.

12. Penalty for contravention of Act by a woman.—Any woman who does any work for which she receives payment in cash or kind after she has been permitted under sub-section (1) of section 4 to absent herself from work, or who engages in employment in any mine in contravention of section 3 shall be punishable with fine which may extend to ten rupees, and, if she is entitled to maternity benefit under this Act shall forfeit her right to any maternity benefit not already paid to her.

13. Penalty for contravention of Act by owner or manager.—(1) Any owner or manager of a mine, who contravenes any provision of this Act for which no express penalty is provided, shall be punishable with fine which may extend to five hundred rupees.

(2) The Court imposing the fine may, if the contravention has resulted in depriving a woman of any maternity benefit due to her, order the whole or any part of the fine when paid to be applied in payment of compensation to the woman for any loss caused to her by the contravention of the provision on account of which the fine has been imposed, and an Appellate Court or the High Court in exercise of its powers of revision may also make such order.

14. Cognizance of cases.—(1) No prosecution under this Act shall be instituted except by or with the sanction of the Chief Inspector.

(2) No Court inferior to that of a Magistrate of the first class shall try an offence punishable under this Act or any rule made thereunder.

(3) No Court shall take cognizance of an offence punishable under this Act or any rule made thereunder, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed :

Provided that in computing the said period of six months any time spent in obtaining the sanction of the Chief Inspector required by sub-section (1) shall be excluded.

15. Power of Central Government to make rules.—(1) The Central Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) require the maintenance of registers and records for the purposes of this Act and prescribe the form thereof ;

(b) prescribe the form of the notices referred to in section 4 and section 7, and require mines to supply copies thereof to women workers ;

(c) regulate the examination of women under the proviso to sub-section (1) of section 4, and the grant of the certificates therein referred to ;

(d) prescribe the nature of and the method of furnishing the proof referred to in section 7, section 8 and section 9 ;

(e) regulate the manner of applying for and paying maternity benefit ;

(f) assign duties to, and regulate the powers of, the Chief Inspector and Inspectors, for the purposes of this Act.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

16. *Abstract of this Act and the rules made thereunder to be exhibited in mines.*—(1) The manager of every mine in which women are employed shall cause an abstract in the local Indian language of the provisions of this Act and of the rules made thereunder to be exhibited in the mine in such manner that they may come to the notice of every woman employed in the mine.

(2) For any contravention of the provisions of this section the manager shall be punishable with fine which may extend to one hundred rupees.

17. *Power of Central Government to exempt mines from operation of Act.*—The Central Government may, by notification in the official Gazette, exempt any mine or class of mines from the operation of this Act.

18. *Act binding on Crown.*—The provisions of this Act shall be binding on the Crown.

THE PROFESSIONS TAX LIMITATION ACT, 1941.

Act No. XX of 1941¹

[26th November, 1941.]

An Act to limit to a maximum of fifty rupees per annum the amount payable in respect of any person by way of tax on professions, trades, callings or employments.

Whereas by section 142A of the Government of India Act, 1935, it is provided that no Provincial law relating to taxes for the benefit of a Province, or of a municipality, district board, local board, or other local authority therein, in respect of professions, trades, callings or employments shall be invalid on the ground that it relates to a tax on income and that the total amount of such tax payable in respect of any one person shall not, after the 31st day of March, 1939, exceed fifty rupees per annum ;

And whereas it is further provided in the said section that any such tax which was in force during the financial year ending with the 31st day of March, 1939, may continue to be lawfully levied at a rate higher than fifty rupees per annum unless provision to the contrary is made by the Federal Legislature ;

And whereas it is expedient that provision shall be made whereby the total amount payable in respect of any such persons by way of such tax shall not exceed fifty rupees per annum ;

It is hereby enacted as follows :—

1. (1) *Short title, extent and commencement.*—This Act may be called the Professions Tax Limitation Act, 1941.

(2) It extends to the whole of British India.

(3) It shall come into force on the 1st day of April, 1942.

2. *Limitation of tax.*—Notwithstanding the provisions of any law for the time being in force, any taxes payable in respect of any one person to a Province, or to any one municipality, district board, local board or other local authority in any Province, by way of tax on professions, trades, callings or employments, shall from and after the commencement of this Act cease to be levied to the extent to which such taxes exceed fifty rupees per annum.

3. *Saving.*—The provisions of section 2 shall not apply to any tax specified in the Schedule.

¹ For Statement of Objects and Reasons, see Gazette of India, 1941, Pt. V, p. 123; and for Report of Select Committee, see *ibid.*, p. 167.

The Act has been applied to Br. Baluchistan, see Notification No. 52-F, dated the 5th April, 1942, Gazette of India, 1942, Pt. I, p. 682.

THE SCHEDULE.

(See section 3.)

Taxes to which section 2 does not apply.

1. The tax on professions, trades and callings, imposed through fees for annual licences, under Chapter XII of the Calcutta Municipal Act, 1923 (Ben. Act III of 1923).

2. The tax on trades, professions and callings, imposed under clause (f) of sub-section (1) of section 123 of the Bengal Municipal Act, 1932 (Ben. Act XV of 1932).

3. The tax on trades and callings carried on within the municipal limits and deriving special advantages from, or imposing special burdens on, municipal services, imposed under clause (ii) of sub-section (1) of section 128 of the United Provinces Municipalities Act, 1916 (U. P. Act II of 1916).

4. The tax on persons exercising any profession or art, or carrying on an trade or calling, within the limits of the municipality, imposed under clause (b) of sub-section (1) of section 66 of the Central Provinces Municipalities Act 1922 (C. P. Act II of 1922).

THE FEDERAL COURT ACT, 1941.

Act No. XXI of 1941.¹

[26th November, 1941.]

An Act to empower the Federal Court to make rules for regulating the presentation of appeals lying to that Court.

Whereas it is expedient to empower the Federal Court to make rules for regulating the presentation of appeals lying to that Court, and for that purpose to repeal those provisions of the Code of Civil Procedure, 1908 (V of 1908) which now regulate that matter ;

It is hereby enacted as follows :—

1. *Short title and commencement.*—(1) This Act may be called the Federal Court Act, 1941.

(2) It shall come into force on such date as the Central Government may by notification in the official Gazette, appoint.

2. *Repeal of section 111A and rule 17 of Order XLV of the First Schedule Act V of 1908.*—Section 111A of the Code of Civil Procedure, 1908 (V of 1908) and rule 17 of Order XLV of the First Schedule to the said Code shall be omitted

3. *Power of Federal Court to make rules.*—The Federal Court may, with the approval of the Governor General in his discretion, make rules for regulating the presentation and prosecution of appeals lying to that Court, including rules relating to the furnishing of security for costs, the proceedings, in any, to be had in High Courts in connection with such appeals, and the preparation and transmission to the Federal Court of the records in such appeals.

¹ For Statement of Objects and Reasons, see Gazette of India, 1941, Pt. V, p. 126 and for Report of Select Committee, see *ibid.*, p. 165.

The Act has been applied to Br. Baluchistan, see Notification No. 20-F, dated the 5th February, 1942, Gazette of India, 1942, Pt. I, p. 264, the Santhal Parganas and Chota Nagpur, see Bihar Govt. Notfn. No. 2759-J/A-55/41, dated the 16th December 1941, and the excluded areas in Madras, with the omission of s. 2, see Fort St. George Gazette, Pt. I, dated the 12th May, 1942.

² The 1st September, 1942, see Gazette of India, 1942, Pt. I, p. 1226.

The Act came into force from 5th July 1943 in the following areas :—
Santhal Parganas Dist. and the Chota Nagpur Divn. in the Province of Bihar
Jamsar-Bawar Pargana of the Dehra Dun Dist., and the portion of the Mirzapur Dist., South of the Kainour Range in the United Provinces ; the partially excluded areas in the Province of Madras ; the Dist. of Sambalpur ; the Dist. of Angul and the Dist. of Khondmals in the Province of Orissa, see Notfn. No. F-203/41-C. & G. (Judl.), dated the 30th June. 1943. Gaz. of India 1943 Pt. I p. 501

THE RAILWAYS (LOCAL AUTHORITIES' TAXATION) ACT, 1941.

Act No. XXV of 1941.¹

[26th November, 1941.]

An Act to regulate the extent to which railway property shall be liable to taxation imposed by an authority within a Province.

Whereas it is expedient to regulate the extent to which property vested in His Majesty for the purposes of the Central Government, being property of a railway, shall be liable to taxation imposed by an authority within a Province ;

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Railways (Local Authorities' Taxation) Act, 1941.

(2) It extends to the whole of British India.

2. *Definitions.*—In this Act,—

(a) “ local authority ” means a local authority as defined in the General Clauses Act, 1897 (X of 1897), and includes any authority legally entitled to or entrusted with the control or management of any fund for the maintenance of watchmen or for the conservancy, of a river ;

(b) “ railway administration ” has the meaning assigned to the expression in clause (6) of section 3 of the Indian Railways Act, 1890 (IX of 1890).

3. *Liability of railways to taxation by local authorities.*—(1) In respect of property vested in His Majesty for the purposes of the Central Government, being property of a railway, a railway administration shall be liable to pay any tax in aid of the funds of any local authority, if the Central Government, by notification in the official Gazette, declares it to be so liable.

(2) While a notification under sub-section (1) is in force, the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification or in lieu thereof such sum, if any, as a person appointed in this behalf by the Central Government may, having regard to the services rendered to the railway and all the relevant circumstances of the case, from time to time determine to be fair and reasonable. The person so appointed shall be a person who is or has been a Judge of a High Court or a District Judge.

4. *Modification of existing liability to taxation.*—The Central Government may, by notification in the official Gazette, revoke or vary any notification issued under clause (1) of section 135 of the Indian Railways Act, 1890 (IX of 1890) ; and where a notification is so revoked any liability arising out of the notification to pay any tax to any local authority shall cease, and where a notification is so varied the liability arising out of the notification shall be varied accordingly.

5. *Saving.*—Nothing in this Act shall be construed as debarring any railway administration administering a railway from entering into a contract with any local authority for the supply of water or light or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control.

¹For Statement of Objects and Reasons, see Gazette of India, 1941, Pt. V, p. 130 ; and for Report of Select Committee, see *ibid*, p. 194.

The Act has been applied to Br. Baluchistan, see Notfn. No. 20-F, dated the 5th February, 1942, Gazette of India, 1942, Pt. I, p. 264.

THE MULTI-UNIT CO-OPERATIVE SOCIETIES ACT, 1942.

Act No. VI of 1942.¹

[2nd March, 1942.]

An Act to provide for the incorporation, regulation and winding up of co-operative societies with objects not confined to one province.

Whereas it is expedient to provide for the incorporation, regulation and winding up of co-operative societies with objects not confined to one province ;

It is hereby enacted as follows :—

1. *Short title, extent and application.*—(1) This Act may be called the Multi-unit Co-operative Societies Act, 1942.

(2) It extends to the whole of British India.

(3) It applies to all co-operative societies with objects not confined to one province incorporated before the commencement of this Act under the Co-operative Societies Act, 1912 (II of 1912), or under any Act relating to co-operative societies in force in any province, and to all co-operative societies with objects not confined to one province to be incorporated after the commencement of this Act.

2. *Co-operative societies to which this Act applies registered before commencement of this Act.*—(1) A co-operative society to which this Act applies which has been registered in any province under the law relating to co-operative societies in force in that province shall be deemed in any other province to which its objects extend to be duly registered in that other province under the law there in force relating to co-operative societies, but shall, save as provided in sub-sections (2) and (3), be subject for all the purposes of registration, control and dissolution to the law relating to co-operative societies in force for the time being in the province in which it is actually registered.

(2) Where any such co-operative society has established before the commencement of this Act or establishes after the commencement of this Act a branch or place of business in a province other than that in which it is actually registered, it shall, within six months from the commencement of this Act or the date of establishment of the branch or place of business, as the case may be, furnish the Registrar of Co-operative Societies of the province in which such branch or place of business is situated a copy of its registered bye-laws, and shall at any time it is required to do so by the said Registrar submit any returns and supply any information which the said Registrar might require to be submitted or supplied to him by a co-operative society actually registered in that province.

(3) The Registrar of Co-operative Societies of the province in which a branch or place of business such as is referred to in sub-section (2) is situated may exercise in respect of that branch or place of business any powers of audit and of inspection which he might exercise in respect of a co-operative society actually registered in the province.

3. *Co-operative societies to which this Act applies registered after commencement of this Act.*—(1) A society which might, if its objects were confined to one province, be registered as a co-operative society in any province under the law relating to co-operative societies in force in that province, shall, notwithstanding that its objects are not confined to the province in which its

¹For Statement of Objects and Reasons, see Gazette of India, 1942, Pt. V, p. 17. The Act has been applied to Br. Baluchistan, see Notfn. No. 54-F, dated the 9th April, 1942, Gazette of India, 1942, Pt. I, p. 682.

principal place of business is to be situated, be deemed for the purposes of registration as a co-operative society to be situated wholly in that province, and may be registered by the Registrar of Co-operative Societies of that province in accordance with the law relating to co-operative societies for the time being in force in that province, and if so registered shall be deemed in any other province to which its objects extend to be duly registered in that other province under the law there in force relating to co-operative societies but shall, save as provided in sub-sections (2) and (3), be subject for all the purposes of registration, control and dissolution to the law relating to co-operative societies in force for the time being in the province in which it is actually registered.

(2) Where any such co-operative society establishes a branch or place of business in a province other than that in which it is actually registered, it shall within six months from the date of establishment of the branch or place of business furnish to the Registrar of Co-operative Societies of the province in which such branch or place of business is situated a copy of its registered bye-laws, and shall at any time it is required to do so by the said Registrar submit any returns and supply any information which the said Registrar might require to be submitted or supplied to him by a co-operative society actually registered in that province.

(3) The Registrar of Co-operative Societies of the province in which a branch or place of business such as is referred to in sub-section (2) is situated may exercise in respect of that branch or place of business any powers of audit and of inspection which he might exercise in respect of a co-operative society actually registered in that province.

4. *Appointment and powers of Central Registrar of Co-operative Societies.*—

(1) The Central Government may, if it thinks fit, appoint a Central Registrar of Co-operative Societies.

(2) The Central Registrar of Co-operative Societies, if appointed, shall exercise in respect of any co-operative society to which this Act applies, to the exclusion of Provincial Registrars, the powers and functions exercisable by the Registrar of Co-operative Societies of the province in which such society is actually registered.

5. *Penalty for failure to furnish information required under this Act.*—

If any co-operative society fails to furnish the information which it is required to furnish by or under sub-section (2) of section 2 or sub-section (2) of section 3, or to submit any return required to be submitted under either of those sub-sections, the society, and any officer or member of the society responsible for the failure, shall each be liable to fine which may extend to fifty rupees, and the registration of the society may, at the discretion of the Registrar of Co-operative Societies of the province in which the society is actually registered, be cancelled.

6. *Power of Central Government to make rules.*—The Central Government may, by notification in the official Gazette, make rules for carrying into effect the provisions of this Act.

THE COFFEE MARKET EXPANSION ACT, 1942.

CONTENTS.

SECTIONS.

1. Short title, extent and duration.
2. Declaration as to expediency of Central Government's control.
3. Definitions.
4. Constitution of the Board.
5. Incorporation of the Board.
6. Vesting of property in the Board.

(e) "curing establishment" means any place to which raw coffee is sent by a registered owner for curing, and includes any estate which the Board may declare to be a curing establishment. for the purposes of this Act ;

(f) "estate" means an area administered as one unit which contains land planted with coffee plants ;

(g) "Indian Coffee Cess Committee" means the Indian Coffee Cess Committee constituted under the Indian Coffee Cess Act, 1935 (XIV of 1935) ;

(h) "internal sale quota" means that portion, stated in terms of bulk or weight, of the whole of the coffee produced by the estate in the year, which a registered estate is permitted under this Act to sell in the Indian market ;

(i) "Owner includes any agent of an owner, ¹[a mortgagee in possession or a lessee] ;

(j) "prescribed" means prescribed by rules made under this Act ;

(k) "registered estate" means an estate in respect of which an owner is registered under sub-section (1) of section 14, and includes also any estate in respect of which an owner is required to be registered under the provisions of that sub-section ;

(l) "registered owner" means an owner of a registered estate who has been or is required to be registered under sub-section (1) of section 14 ;

(m) "surplus pool" means the stock of coffee accumulated by the Board out of the amounts delivered to the Board under section 25 ;

(n) "year" means the period of twelve months beginning with the 1st day of July and ending with the 30th day of June following.

4. *Constitution of the Board.*—(1) The Board constituted by the name of the Indian Coffee Market Expansion Board under section 4 of the Indian Coffee Market Expansion Ordinance, 1940 (XIII of 1940), shall be the ²[Indian Coffee Board] for the purposes of this Act.

³[(2) The Board shall consist of—

(a) five persons representing the agricultural departments of the Provincial Governments of Madras and Coorg and of the Governments of the States of Mysore, Travancore and Cochin, nominated, in the case of the States' Representatives, by the Government of the State concerned, and in the other cases, by the Central Government ;

(b) eleven persons representing the coffee growing industry; namely :—

(i) three persons nominated by the Government of Mysore State ;

(ii) two persons nominated by the Central Government to represent Madras and Coorg, respectively ;

(iii) three persons nominated by the United Planters' Association of Southern India ;

(iv) one person nominated by the Coorg Planters' Association ;

(v) one person nominated by the Mysore Planters' Association ;

(vi) one person nominated by the Indian Planters' Association, Mysore ;

(c) four persons representing the coffee trade interests, nominated by the Central Government ;

¹ Added, Coffee Market Expansion (Amdt.) Act, 1943 (7 of 1943).

²Subst., *ibid.*

³Ins., *ibid*

(d) one person representing the Imperial Council of Agricultural Research, nominated by the Central Government ;

(e) two persons nominated by the Central Government to represent—

(i) the coffee growing industry in the Mysore State, and

(ii) the Shevaroy Planters' Association, Yercaud.

(3) Where a member of the Board dies, resigns or is removed, or ceases to reside in India, or becomes incapable of acting, the Central Government may, on the recommendation of the authority or body which was entitled to make the first nomination under sub-section (2), or where such recommendation is not made within a reasonable time, then on its own initiative, nominate a person to fill the vacancy.].

¹[(4)] No act done by the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

5. *Incorporation of the Board.*—The Board shall be a body corporate by the name of the ²[Indian Coffee Board] having perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

6. *Vesting of property in the Board.*—So long as this Act remains in force all property, movable or immovable, of or belonging to the Indian Coffee Cess Committee shall vest in the Board and all debts and liabilities of the said Committee shall be transferred to the Board, and the officers, and servants of the said Committee shall be officers and servants on the staff of the Board and the said Committee shall be suspended.

7. *Chairman, committees, staff and agents.*—(1) The chairman of the Board shall be elected by the Board from among the members of the Board :

Provided that the person who is, at the commencement of this Act, the chairman of the Indian Coffee Market Expansion Board constituted under the Coffee Market Expansion Ordinance, 1940 (XIII of 1940), shall be the first chairman of the Board.

(2) The Board may appoint such committees for such purposes and may employ such staff as it thinks necessary for the efficient discharge of its functions under this Act.

(3) The Board may authorise agents to discharge on its behalf its functions in relation to the marketing, storing and curing of coffee.

8. *Controller and Deputy Controller of Coffee.*—(1) The Central Government shall appoint an officer, to be called the Controller of Coffee, to exercise such powers and perform such duties under the direction of the Board as may be prescribed by the Central Government.

(2) The Central Government may appoint an officer, to be called the Deputy Controller of Coffee, to exercise such powers and perform such duties of the Controller of Coffee as may be delegated to him by the Controller of Coffee with the previous sanction of the Central Government or as may be prescribed by the Central Government.

(3) The Controller of Coffee and the Deputy Controller of Coffee may be either salaried or unsalaried : if salaried, they shall be paid by the Board such salaries as may be fixed by the Central Government.

(4) The Board shall pay to the Controller of Coffee and the Deputy Controller of Coffee such allowances as may be fixed by the Central Government.

9. *Power of Board to make bye-laws.*—The Board may, with the previous sanction of the Central Government, make bye-laws consistent with this Act and

*Re-numbered Coffee Market Expansion (Amdt.) Act, 1943 (7 of 1943).

²Subst., *ibid.*

the rules made thereunder to provide for all or any of the following matters, namely :—

(a) the procedure to be followed at meetings of the Board and at committees ;

(b) the powers exercisable and the duties to be discharged by the chairman of the Board and the members of the staff of the Board ;

(c) the travelling or other allowances which may be drawn by members of the Board ;

(d) the appointment, promotion and dismissal of members of the staff of the Board, the creation and abolition of such appointments, and the terms of service of members of the staff of the Board ;

(e) any other matter in respect of which bye-laws may be made under this Act or the rules made thereunder.

10. Dissolution of the Board.—When the Board is dissolved by reason of this Act having ceased to be in force, the unexpended balance of all money received by the Board under the Coffee Market Expansion Ordinance, 1940, (XIII of 1940), or under this Act except money in the pool fund shall be disposed of in such manner as the Central Government may direct. The Central Government shall disburse the money in the pool fund in the same manner as the Board would have done had it continued to exist.

Duties of Customs and of Excise.

11. Duty of customs.—A duty of customs shall be levied on all coffee produced in India and exported from British India at the rate of one rupee per hundredweight or at such lower rate as the Central Government may, on the recommendation of the Board, by notification in the official Gazette provide.

12. Duty of excise.—A duty of excise shall be levied at such rate not exceeding one rupee per hundredweight as may be fixed by the Central Government on the recommendation of the Board by notification in the official Gazette on all coffee, except coffee sold and delivered before the estate became subject to the provisions of sub-section (1) of section 14, which a registered estate is permitted by the internal sale quota allotted to it to sell in the Indian market, whether such coffee is actually sold or not, and on all coffee released for sale in India by the Board from the surplus pool.

13. Payment of proceeds of duties to the Board and manner of realisation by the Board.—(1) The proceeds of the duty of customs levied under section 11 and of the duty of excise levied under section 12 shall be paid to the Board for credit to the general fund of the Board.

(2) On the last day of each month, or as soon thereafter as may be convenient, the Collector shall pay to the Board the proceeds of the duty of customs recovered during that month after deduction of the expenses, if any, for collection and recovery.

(3) The Central Board of Revenue may make rules providing, on such conditions as may be specified in the rules, for—

(a) the refund of the duty of customs where coffee is exported by land and subsequently imported into India, and

(b) the export by land, without payment of the duty of customs, of coffee which is subsequently to be imported into India.

(4) The duty of excise on coffee shall be payable by the registered owner of the estate producing the coffee and shall be realised by the Board by the deduction of the amount of the duty payable by such owner from any sum due to him on account of sales from the surplus pool. It shall be a first charge on

such sum, and shall, if not capable of realisation by deduction as aforesaid, be paid to the Board by the registered owner within one month of demand by the Board or thereafter be recoverable from him as an arrear of land-revenue.

(5) The Board shall have power to adjudge by bulk the number of hundred-weights contained in any quantity of uncured coffee.

(6) No action of the Board under this section shall be called in question by any Court.

Registration.

14. *Registration of owners of coffee estates.*—(1) Every person owning land planted with coffee plants aggregating not less than ten acres, whether such land is comprised in one estate or in more than one estate and whether it is situated wholly or only partly in British India, shall, unless it is already registered as required by this sub-section, before the expiration of one month from the date on which he first becomes subject to the provisions of this sub-section, apply to the registering officer appointed in this behalf by the Provincial Government to be registered as an owner and in respect of each estate owned by him.

(2) The Central Government may, by notification in the official Gazette, declare that the provisions of sub-section (1) shall apply to persons owning land planted with coffee plants aggregating less than ten acres.

(3) A registration once made shall continue in force until it is cancelled by the registering officer.

(4) If any question arises whether an owner of an estate is or is not required to be registered under this section, the question shall be decided by the Controller of Coffee, subject to revision by the Central Government.

15. *Power of Provincial Government to make rules.*—(1) The Provincial Government may, by notification in the official Gazette, make rules to carry into effect the provisions of section 14.

(2) Without prejudice to the generality of the foregoing power, such rules may prescribe the form of the application for registration and for cancellation of registration, the fee payable on such applications, the particulars to be included in such applications, the procedure to be followed in granting and cancelling registration, the registers to be kept by registering officers, and the supply by registering officers of information to the Board.

Control of Sale, Export and Re-import of Coffee.

¹[16. *Fixation of prices for sale of coffee.*—(1) The Central Government may, after consultation with the Board, by notification in the official Gazette, fix the price or prices at which coffee may be sold wholesale or retail in the Indian market.

(2) No registered owner or licensed curer or dealer shall sell coffee wholesale or retail in the Indian market at a price or prices higher than the price or prices fixed under this section].

17. *Sale of coffee in excess of internal sale quota.*—No registered owner shall, before the estate became subject to the provisions of sub-section (1) of section 14, sell or contract to sell in the Indian market coffee from any registered estate if by such sale the internal sale quota allotted to that estate is exceeded.

²[Nor shall a registered owner sell or contract to sell in the Indian market any coffee produced on his estate in any year for which no internal sale quota is allotted to the estate].

¹Subst., Coffee Market Expansion (Amdt.) Act, 1943 (7 of 1943).

²Added, *ibid*.

SECTIONS.

7. Chairman, committees, staff and agents.
8. Controller and Deputy Controller of Coffee.
9. Power of Board to make bye-laws.
10. Dissolution of the Board.

Duties of Customs and of Excise.

11. Duty of customs.
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41. Power of Board to determine amount of coffee sold by an estate.
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46. Inspection of records of the Board and obtaining of copies.
47. Contracts.
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49. Act XIV of 1935 to be deemed to be repealed.
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Act No. VII. of 1942.¹*2nd March, 1942.*

An Act to continue the provision made under Ordinance No. XIII of 1940 for assistance to the coffee industry by regulating the export of coffee from and the sale of coffee in British India and by other means.

Whereas it is expedient to continue the provision made under the Coffee Market Expansion Ordinance, 1940 (XIII of 1940), for assistance to the coffee industry by regulating the export of coffee from and the sale of coffee in British India and by other means ;

It is hereby enacted as follows :—

1. *Short title, extent and duration.*—(1) This Act may be called the Coffee Market Expansion Act, 1942.

(2) It extends to the whole of British India.

(3) It shall cease to be in force at the end of the twelve months commencing on the 1st day of July subsequent to the termination of the present hostilities.

2. *Declaration as to expediency of Central Government's control.*—It is hereby declared that it is expedient in the public interest that the Central Government should take under its control the development of the coffee industry.

3. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “ the Board ” means the ²[Indian Coffee Board] constituted under section 4 ;

(b) “ coffee ” means the commodity derived from the fruit of the rubiaceous plant known by that name, and includes raw coffee, cured coffee, uncured coffee, roasted coffee and prepared coffee ;

(c) “ Collector ” means a Customs-collector as defined in clause (c) of section 3 of the Sea Customs Act, 1878 (VIII of 1878), or a Collector of Land Customs as defined in clause (c) of section 2 of the Land Customs Act, 1924, (XIX of 1924), as the case may be ;

(d) “ curing ” means the application to raw coffee of mechanical processes other than pulping for the purpose of preparing it for marketing ;

¹For Statement of Objects and Reasons, see Gazette of India, 1942, Pt. V, p. 13.

²Subst. Coffee Market Expansion (Amdt.) Act, 1943 (7 of 1943).

(e) "curing establishment" means any place to which raw coffee is sent by a registered owner for curing, and includes any estate which the Board may declare to be a curing establishment, for the purposes of this Act ;

(f) "estate" means an area administered as one unit which contains land planted with coffee plants ;

(g) "Indian Coffee Cess Committee" means the Indian Coffee Cess Committee constituted under the Indian Coffee Cess Act, 1935 (XIV of 1935) ;

(h) "internal sale quota" means that portion, stated in terms of bulk or weight, of the whole of the coffee produced by the estate in the year, which a registered estate is permitted under this Act to sell in the Indian market ;

(i) "Owner includes any agent of an owner, ¹[a mortgagee in possession or a lessee] ;

(j) "prescribed" means prescribed by rules made under this Act ;

(k) "registered estate" means an estate in respect of which an owner is registered under sub-section (1) of section 14, and includes also any estate in respect of which an owner is required to be registered under the provisions of that sub-section ;

(l) "registered owner" means an owner of a registered estate who has been or is required to be registered under sub-section (1) of section 14 ;

(m) "surplus pool" means the stock of coffee accumulated by the Board out of the amounts delivered to the Board under section 25 ;

(n) "year" means the period of twelve months beginning with the 1st day of July and ending with the 30th day of June following.

4. *Constitution of the Board.*—(1) The Board constituted by the name of the Indian Coffee Market Expansion Board under section 4 of the Indian Coffee Market Expansion Ordinance, 1940 (XIII of 1940), shall be the ²[Indian Coffee Board] for the purposes of this Act.

³[(2) The Board shall consist of—

(a) five persons representing the agricultural departments of the Provincial Governments of Madras and Coorg and of the Governments of the States of Mysore, Travancore and Cochin, nominated, in the case of the States' Representatives, by the Government of the State concerned, and in the other cases, by the Central Government ;

(b) eleven persons representing the coffee growing industry, namely :—

(i) three persons nominated by the Government of Mysore State ;

(ii) two persons nominated by the Central Government to represent Madras and Coorg, respectively ;

(iii) three persons nominated by the United Planters' Association of Southern India ;

(iv) one person nominated by the Coorg Planters' Association ;

(v) one person nominated by the Mysore Planters' Association ;

(vi) one person nominated by the Indian Planters' Association, Mysore ;

(c) four persons representing the coffee trade interests, nominated by the Central Government ;

¹ Added, Coffee Market Expansion (Amdt.) Act, 1943 (7 of 1943).

²Subst., *ibid.*

³Ins., *ibid*

(d) one person representing the Imperial Council of Agricultural Research, nominated by the Central Government ;

(e) two persons nominated by the Central Government to represent—

(i) the coffee growing industry in the Mysore State, and

(ii) the Shevaroy Planters' Association, Yercaud.

(3) Where a member of the Board dies, resigns or is removed, or ceases to reside in India, or becomes incapable of acting, the Central Government may, on the recommendation of the authority or body which was entitled to make the first nomination under sub-section (2), or where such recommendation is not made within a reasonable time, then on its own initiative, nominate a person to fill the vacancy.]

¹[(4)] No act done by the Board shall be questioned on the ground merely of the existence of any vacancy in, or any defect in the constitution of, the Board.

5. *Incorporation of the Board.*—The Board shall be a body corporate by the name of the ²[Indian Coffee Board] having perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and to contract, and shall by the said name sue and be sued.

6. *Vesting of property in the Board.*—So long as this Act remains in force all property, movable or immovable, of or belonging to the Indian Coffee Cess Committee shall vest in the Board and all debts and liabilities of the said Committee shall be transferred to the Board, and the officers and servants of the said Committee shall be officers and servants on the staff of the Board and the said Committee shall be suspended.

7. *Chairman, committees, staff and agents.*—(1) The chairman of the Board shall be elected by the Board from among the members of the Board :

Provided that the person who is, at the commencement of this Act, the chairman of the Indian Coffee Market Expansion Board constituted under the Coffee Market Expansion Ordinance, 1940 (XIII of 1940), shall be the first chairman of the Board.

(2) The Board may appoint such committees for such purposes and may employ such staff as it thinks necessary for the efficient discharge of its functions under this Act.

(3) The Board may authorise agents to discharge on its behalf its functions in relation to the marketing, storing and curing of coffee.

8. *Controller and Deputy Controller of Coffee.*—(1) The Central Government shall appoint an officer, to be called the Controller of Coffee, to exercise such powers and perform such duties under the direction of the Board as may be prescribed by the Central Government.

(2) The Central Government may appoint an officer, to be called the Deputy Controller of Coffee, to exercise such powers and perform such duties of the Controller of Coffee as may be delegated to him by the Controller of Coffee with the previous sanction of the Central Government or as may be prescribed by the Central Government.

(3) The Controller of Coffee and the Deputy Controller of Coffee may be either salaried or unsalaried : if salaried, they shall be paid by the Board such salaries as may be fixed by the Central Government.

(4) The Board shall pay to the Controller of Coffee and the Deputy Controller of Coffee such allowances as may be fixed by the Central Government.

9. *Power of Board to make bye-laws.*—The Board may, with the previous sanction of the Central Government, make bye-laws consistent with this Act and

*Renumbered Coffee Market Expansion (Amdt.) Act, 1943 (7 of 1943).

²Subst., *ibid.*

the rules made thereunder to provide for all or any of the following matters, namely :—

(a) the procedure to be followed at meetings of the Board and at committees ;

(b) the powers exercisable and the duties to be discharged by the chairman of the Board and the members of the staff of the Board ;

(c) the travelling or other allowances which may be drawn by members of the Board ;

(d) the appointment, promotion and dismissal of members of the staff of the Board, the creation and abolition of such appointments, and the terms of service of members of the staff of the Board ;

(e) any other matter in respect of which bye-laws may be made under this Act or the rules made thereunder.

10. Dissolution of the Board.—When the Board is dissolved by reason of this Act having ceased to be in force, the unexpended balance of all money received by the Board under the Coffee Market Expansion Ordinance, 1940, (XIII of 1940), or under this Act except money in the pool fund shall be disposed of in such manner as the Central Government may direct. The Central Government shall disburse the money in the pool fund in the same manner as the Board would have done had it continued to exist.

Duties of Customs and of Excise.

11. Duty of customs.—A duty of customs shall be levied on all coffee produced in India and exported from British India at the rate of one rupee per hundredweight or at such lower rate as the Central Government may, on the recommendation of the Board, by notification in the official Gazette provide.

12. Duty of excise.—A duty of excise shall be levied at such rate not exceeding one rupee per hundredweight as may be fixed by the Central Government on the recommendation of the Board by notification in the official Gazette on all coffee, except coffee sold and delivered before the estate became subject to the provisions of sub-section (1) of section 14, which a registered estate is permitted by the internal sale quota allotted to it to sell in the Indian market, whether such coffee is actually sold or not, and on all coffee released for sale in India by the Board from the surplus pool.

13. Payment of proceeds of duties to the Board and manner of realisation by the Board.—(1) The proceeds of the duty of customs levied under section 11 and of the duty of excise levied under section 12 shall be paid to the Board for credit to the general fund of the Board.

(2) On the last day of each month, or as soon thereafter as may be convenient, the Collector shall pay to the Board the proceeds of the duty of customs recovered during that month after deduction of the expenses, if any, for collection and recovery.

(3) The Central Board of Revenue may make rules providing, on such conditions as may be specified in the rules, for—

(a) the refund of the duty of customs where coffee is exported by land and subsequently imported into India, and

(b) the export by land, without payment of the duty of customs, of coffee which is subsequently to be imported into India.

(4) The duty of excise on coffee shall be payable by the registered owner of the estate producing the coffee and shall be realised by the Board by the deduction of the amount of the duty payable by such owner from any sum due to him on account of sales from the surplus pool. It shall be a first charge on

such sum, and shall, if not capable of realisation by deduction as aforesaid, be paid to the Board by the registered owner within one month of demand by the Board or thereafter be recoverable from him as an arrear of land-revenue.

(5) The Board shall have power to adjudge by bulk the number of hundred-weights contained in any quantity of uncured coffee.

(6) No action of the Board under this section shall be called in question by any Court.

Registration.

14. *Registration of owners of coffee estates.*—(1) Every person owning land planted with coffee plants aggregating not less than ten acres, whether such land is comprised in one estate or in more than one estate and whether it is situated wholly or only partly in British India, shall, unless it is already registered as required by this sub-section, before the expiration of one month from the date on which he first becomes subject to the provisions of this sub-section, apply to the registering officer appointed in this behalf by the Provincial Government to be registered as an owner and in respect of each estate owned by him.

(2) The Central Government may, by notification in the official Gazette, declare that the provisions of sub-section (1) shall apply to persons owning land planted with coffee plants aggregating less than ten acres.

(3) A registration once made shall continue in force until it is cancelled by the registering officer.

(4) If any question arises whether an owner of an estate is or is not required to be registered under this section, the question shall be decided by the Controller of Coffee, subject to revision by the Central Government.

15. *Power of Provincial Government to make rules.*—(1) The Provincial Government may, by notification in the official Gazette, make rules to carry into effect the provisions of section 14.

(2) Without prejudice to the generality of the foregoing power, such rules may prescribe the form of the application for registration and for cancellation of registration, the fee payable on such applications, the particulars to be included in such applications, the procedure to be followed in granting and cancelling registration, the registers to be kept by registering officers, and the supply by registering officers of information to the Board.

Control of Sale, Export and Re-import of Coffee.

¹[16. *Fixation of prices for sale of coffee.*—(1) The Central Government may, after consultation with the Board, by notification in the official Gazette, fix the price or prices at which coffee may be sold wholesale or retail in the Indian market.

(2) No registered owner or licensed curer or dealer shall sell coffee wholesale or retail in the Indian market at a price or prices higher than the price or prices fixed under this section].

17. *Sale of coffee in excess of internal sale quota.*—No registered owner shall, before the estate became subject to the provisions of sub-section (1) of section 14, sell or contract to sell in the Indian market coffee from any registered estate if by such sale the internal sale quota allotted to that estate is exceeded.

²[Nor shall a registered owner sell or contract to sell in the Indian market any coffee produced on his estate in any year for which no internal sale quota is allotted to the estate].

¹Subst., Coffee Market Expansion (Amdt.) Act, 1943 (7 of 1943).

²Added, *ibid.*

Provided that nothing in this section shall apply to coffee sold from a registered estate in excess of the internal sale quota if such sale was in pursuance of a contract of sale entered into before the estate became subject to the provisions of sub-section (1) of section 14 and if after the estate became so subject no coffee has been sold from that estate in the Indian market except in pursuance of a contract of sale entered into before the estate became subject to the provisions of sub-section (1) of section 14.

18. Sale of coffee, how made.—No registered owner shall sell coffee unless either—

(a) it has been cured at or is delivered to the buyer through a curing establishment licensed under section 28, or

(b) it is sold under and in accordance with the provisions of a licence procured from the Board under section 24.

19. Storage or sale of coffee on or from unregistered estate.—No owner of an estate not registered under this Act shall sell from or store on his estate or cause or permit to be sold from or stored on his estate any coffee not grown on the estate ¹[and no owner of a registered estate shall sell from or store on his estate or cause or permit to be sold from or stored on his estate any coffee grown on any estate not registered under this Act].

20. Export of coffee.—No coffee shall be exported from British India otherwise than by the Board or under an authorisation granted by the Board in the prescribed manner and in the prescribed cases, and the provisions of the Sea Customs Act, 1878, (VIII of 1878), shall have effect as if the provision made by this section had been made by notification issued under section 19 of that Act :

Provided that nothing herein contained shall apply to coffee dispatched out of British India by post, or carried in a passenger's luggage for his personal use :

Provided further that the Central Government may exempt from the operation of this section, either absolutely or subject to conditions, the export of coffee from British India to an Indian State or to any foreign settlement bounded by India.

21. Re-import of coffee exported from India.—(1) No coffee which has been exported from India shall be re-imported into British India except under and in accordance with a permit granted by the Board.

(2) ²[Unless with the previous sanction of the Central Government the Board decides that no internal sale quotas shall be allotted], the Board may in any fit case grant such a permit and no charge shall be made therefor.

22. Internal sale quota.—(1) The Board shall, as soon as may be, allot to each registered estate an internal sale quota for the year.

(2) The internal sale quota shall be a fixed percentage, common to all registered estates, of the probable total production of the estate in the year as estimated by the Board.

(3) The Board may at any time vary the internal sale quota by varying the fixed percentage common to all registered estates, or may express the whole or any part of the internal sale quota of an estate in terms of bulk instead of in terms of weight.

23. Returns to be made by registered owners.—(1) A registered owner shall furnish to the Board at the prescribed times and in the prescribed manner such returns as may be prescribed.

¹Added, Coffee Market Expansion (Amdt.) Act, 1943 (7 of 1943).

²*Ins. ibid.*

(2) If any registered owner fails to furnish the returns required under sub-section (1) in respect of any estate, the Board may ¹[without prejudice to any penalty to which the said owner is liable under section 37-A], refuse to allot an internal sale quota to that estate, or, where an internal sale quota has already been allotted, may cancel it.

(3) The Board may authorise an officer to visit any estate at any time to verify the accuracy of any return made under this section or to ascertain the productive capacity of the estate.

24. Licences for sale of uncured coffee.—The registered owner of any estate may, subject to the prescribed conditions and so long as the internal sale quota allotted to that estate will not be exceeded by the proposed sale, obtain from the Board a licence for the sale from that estate of uncured coffee.

25. Surplus coffee and surplus pool.—(1) All coffee produced by a registered estate in excess of the amount specified in the internal sale quota allotted to that estate ¹[or when no internal sale quotas have been allotted to estates, all coffee produced by the estate], shall be delivered to the Board for inclusion in the surplus pool by the owner of the estate or by the curing establishment receiving the coffee from the estate.

(2) Delivery shall be made to the Board in such places ¹[at such times], and in such manner as the Board may direct, and such directions may provide for partial delivery to the surplus pool at any time whether or not at that time the internal sale quota has been exceeded ; and the coffee delivered shall be such as to represent fairly in kind and quality the produce of the estate. The Board may reject any consignment offered for delivery which does not satisfy this requirement, but shall not reject any consignment merely for a defect in curing.

(3) Coffee delivered for inclusion in the surplus pool shall upon delivery to the Board remain under the control of the Board which shall be responsible for storage, curing where necessary, and marketing of the coffee.

(4) The Board shall, with the concurrence of the Controller of Coffee, ¹[from time to time] prepare a differential scale for the valuation of coffee, and shall in accordance with that scale classify the coffee in each consignment delivered for inclusion in the surplus pool according to its kind and quality, and shall make an assessment of its value based on its quantity, kind and quality.

(5) The Board may, with the consent of a registered owner, ²****, treat as having been delivered for inclusion in the surplus pool any coffee from such estate which the registered owner may agree to have so treated.

(6) When coffee has been delivered or is treated as having been delivered for inclusion in the surplus pool, the registered owner whose coffee has been so delivered or is treated as having been so delivered shall retain no rights in respect of such coffee except his right to receive the payments referred to in section 34.

26. Sales of coffee by the Board.—(1) The Board shall take all practical measures to market the coffee included in the surplus pool, and all sales thereof shall be conducted by or through the Board.

(2) The Board may purchase for inclusion in the surplus pool coffee not delivered for inclusion in it.

¹Ins., Coffee Market Expansion (Amdt.) Act, 1943 (7 of 1943).

²Words omitted, *ibid*.

Curing of Coffee.

27. *Coffee to be cured in licensed curing establishments.*—No registered owner shall cause or allow coffee to be cured elsewhere than in a licensed curing establishment, whether the curing establishment is maintained by himself or by another person.

28. *Licensing of curing establishments.*—Every establishment for curing coffee shall obtain from the Board a licence to operate as such.

29. *Information to be supplied to the Board in connection with curing.*—

(1) A registered owner when sending coffee to a curing establishment shall report to the Board, separately for each estate from which coffee is sent, the amount of coffee sent ; and the curing establishment shall, in accordance with such instructions as may be issued by the Board and having regard to the internal sale quota of the estate, ¹[where one has been allotted], apportion each such consignment into two parts, one part consisting of coffee intended for internal sale and one part of coffee intended to be delivered for inclusion in the surplus pool and shall report to the Board the amount of coffee in each such part. ²[Where no internal sale quotas have been allotted to estates, the curing establishment shall report merely the whole amount of coffee sent in each such consignment].

(2) A registered owner curing coffee in a curing establishment maintained by himself shall supply to the Board the information specified in sub-section (1).

(3) A curing establishment which buys or receives uncured coffee from any person shall ascertain the estate on which the coffee was produced and shall report to the Board the quantity of coffee so obtained and the estate or estates from which it came.

(4) Every curing establishment shall maintain accounts in such forms as may be required by the Board and such accounts shall be open to inspection at any time by the Board or by an officer authorised in this behalf by the Board.

Finance.

30. *Separate funds to be maintained by the Board.*—The Board shall maintain two separate funds, a general fund and a pool fund.

31. *General fund.*—(1) To the general fund shall be credited all proceeds of the duty of customs and the duty of excise levied under section 11 and section 12, respectively, and all receipts including receipts for licences issued by the Board, other than those to be credited under section 32 to the pool fund.

(2) The general fund shall be applied to meet the expenses of the Board, the cost of such measures as it may consider advisable to undertake for promoting the sale and increasing the consumption in India and elsewhere of coffee produced in India, or for promoting agricultural and technological research in the interest of the coffee industry in India.

32. *Pool fund.*—(1) To the pool fund shall be credited all sums realised by sales by the Board of coffee from the surplus pool.

(2) Subject to the provisions of sub-section (4) of section 13, the pool fund shall be applied only to—

(a) the making to registered owners of estates of payments proportionate to the value of the coffee delivered by them for inclusion in the surplus pool ;

¹Ins., Coffee Market Expansion (Amdt.) Act, 1943 (7 of 1943).

²Added, *ibid*.

(b) the costs of storing, curing and marketing coffee deposited in and of administering the surplus pool ;

(c) the purchase of coffee not delivered for inclusion in the surplus pool.

33. *Power to borrow.*—The Board may, subject to any prescribed conditions, borrow on the security of the general fund or the pool fund for any purposes for which it is authorised to expend money from such fund, or on the security of the coffee delivered or treated as delivered for inclusion in the surplus pool for any purposes for which it is authorised to expend money from the pool fund.

34. *Payments to registered owners.*—(1) The Board shall at such times as it thinks fit make to registered owners who have delivered coffee for inclusion in the surplus pool such payments out of the pool fund as it may think proper.

(2) The sum of all payments made under sub-section (1) to any one registered owner shall bear to the sum of the payments made to all registered owners the same proportion as the value of the coffee delivered by him out of the year's crop to the surplus pool bears to the value of all coffee delivered to the surplus pool out of that year's crop :

¹[Provided that in calculating the sum of all payments made under sub-section (1) and the value of the coffee delivered to the surplus pool out of the year's crop, respectively, any payment accepted by a registered owner as final payment in immediate settlement for coffee delivered by him for inclusion in the surplus pool and the value of any such coffee shall be excluded].

Penalties and Procedure.

35. *Failure to register.*—Any owner of a coffee estate who fails to apply for registration in accordance with section 14 shall be punishable with fine which may extend to one thousand rupees and to a further fine which may extend to five hundred rupees for each month after the first during which such failure continues.

36. *Contraventions of sections 16, 17, 18 and 19.*—(1) Any registered owner who contravenes the provisions of sub-section (2) of section 16, or section 17 or section 18, any licensed curer who contravenes the provisions of sub-section (2) of section 16, and any person who contravenes the provisions of section 19 shall be punishable with fine which may extend to one thousand rupees.

(2) When a registered owner is convicted under this section, the Board may thereafter deduct from any payment to be made under section 34 to such registered owner a sum equal to the value as estimated by the Board of any coffee unlawfully sold by him.

37. *Unlicensed curing establishment.*—If any curing establishment operates as such without a licence, the owner shall be punishable with fine which may extend to five hundred rupees.

²[37A. *Contravention of section 23(1).*—Any registered owner who fails to furnish the return required by sub-section (1) of section 23 as required by that sub-section shall be punishable with fine which may extend to one thousand rupees].

38. *False returns.*—Any person who makes in any return to be furnished under section 23 or in any report to be made under section 29 any statement which is false and which he knows to be false or does not believe to be true shall be punishable with fine which may extend to one thousand rupees.

¹Added, Coffee Market Expansion (Amdt.) Act, 1943 (7 of 1943).

²Ins., *ibid.*

¹38A. *Contravention of section 25.*—Any registered owner or licensed curer who fails to deliver any coffee to the Board as required by or under sub-sections (1) and (2) of section 25 shall be punishable with fine which may extend to one thousand rupees, and the Court by which such person is convicted may order the confiscation and delivery to the Board of any coffee in respect of which the offence was committed.

38B. *Powers to seize coffee withheld from inclusion in surplus pool.*—If the Board is satisfied that any coffee which is required under the provisions of section 25 to be delivered for inclusion in the surplus pool is being or is likely to be disposed of otherwise than by such delivery, the Board may order the seizure of such coffee, and may authorise an officer of the Board to effect seizure thereof for delivery for inclusion in the surplus pool, and such authorisation shall be sufficient warrant for such officer to take all steps necessary to secure possession of the coffee].

39. *Obstruction.*—Whoever obstructs any member or officer of the Board or any person authorised by the Board or by the Central Government in the discharge of any duty imposed on or entrusted to him under this Act, or who having control over or custody of any records fails to produce such records when required to do so or refuses information lawfully asked for by a member or officer of the Board or by a person authorised by the Board or by the Central Government to inspect such records or ask for such information shall be punishable with fine which may extend to one thousand rupees.

40. *Cognizance of offences.*—(1) No Court other than the Court of a Magistrate of the first class shall take cognizance of any offence punishable under this Act.

(2) No Court shall take cognizance of an offence punishable under section 35 except on complaint made by an officer authorised in this behalf by the Provincial Government or of an offence punishable under any other section except on complaint made with the previous sanction of the Central Government by an officer authorised in this behalf by the Board.

²[Provided that the Central Government may, by notification in the official Gazette, direct that the previous sanction of the Central Government shall not be necessary for complaints in such cases or classes of cases as may be specified in the notification].

General.

41. *Power of Board to determine amount of coffee sold by an estate.*—The Board shall have power to determine, after such inquiry as it thinks fit, the amount of coffee which has, up to the time when it first becomes subject to the provisions of sub-section (1) of section 14, been sold, or been sold off delivered in the year by any registered estate, and the amount so determined shall be conclusive for the purposes of section 12 and section 17.

42. *Control by the Central Government.*—(1) All acts of the Board shall be subject to the control of the Central Government which may cancel, suspend or modify as it thinks fit any action taken by the Board.

(2) The records of the Board shall be open to inspection at all reasonable times by any officer authorised in this behalf by the Central Government.

43. *Appeals to the Central Government.*—(1) Any person aggrieved by an order of the Board refusing a licence to or cancelling the licence of a curing establishment may, within sixty days of the making of the order, appeal to the Central Government.

(2) Any person making an appeal under this section shall pay a fee of five rupees which shall be credited to Central Revenues.

¹Ins., Coffee Market Expansion (Amdt.) Act, 1943 (7 of 1943).

²Added, *ibid.*

44. *Inspection of records.*—Any member of the Board, and any officer of the Board or other person authorised in this behalf by the Central Government or the Board, may enter any estate or any curing establishment ¹[or any place where coffee is stored or exposed for sale], and may require the production for his inspection of any records kept therein, or ask for any information relating to the production, storage or sale of coffee ^{2***}.

45. *Accounts of the Board.*—(1) The Board shall keep accounts in such manner as may be prescribed of all money received and expended by it.

(2) The accounts shall be kept separately for the general fund and the pool fund.

(3) The Board shall cause the accounts to be audited annually by auditors appointed by the Central Government, and the auditors shall have power to disallow any item of expenditure which has, in their opinion, been incurred otherwise than in accordance with this Act.

(4) The Central Government may on the application of the Board allow any item of expenditure disallowed by the auditors under sub-section (3).

46. *Inspection of records of the Board and obtaining of copies.*—Any registered owner ^{2****} may, subject to the prescribed conditions, inspect the records maintained by the Board and may on payment of the prescribed fee obtain copies of any proceedings or orders of the Board.

47. *Contracts.*—All contracts for the sale of coffee in so far as they are at variance with the provisions of this Act shall be void :

Provided that nothing contained in this section shall apply to contracts to which under section 47 of the Coffee Market Expansion Ordinance, 1940, (XIII of 1940), that Ordinance did not apply.

¹[47A. *Bar of legal proceedings.*—No suit, prosecution or other legal proceeding shall lie against the Board or any officer of the Board for or in respect of anything in good faith done or intended to be done under this Act].

48. *Power of the Central Government to make rules.*—(1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing power rules may be made providing for all or any of the following matters, namely :—

(a) the term of office of members of the Board, the circumstances in which and the authority by which members may be removed, and the filling of casual vacancies in the Board ;

(b) the conduct of business by the Board and the number of members which shall form a quorum at a meeting ;

(c) the maintenance by the Board of records of business transacted by the Board, and the submission of copies thereof to the Central Government ;

(d) the preparation by the Board of estimates of annual receipts and expenditure ;

(e) the manner in which the internal sale quota of coffee estates shall be determined ;

(f) the manner in which the Board shall exercise its powers of buying and selling coffee in the Indian market ;

(g) the appointment by the Board of agents ;

(h) the conditions to be fulfilled by a curing establishment before a licence to operate as such can be issued ;

¹Ins., Coffee Market Expansion (Amdt.) Act, 1943 (7 of 1943).

²Words omitted, *ibid*.

(i) the form of and the particulars to be contained in any returns or reports to be made to the Board under this Act :

(j) the form of, manner of application for, fees payable for, procedure in granting and conditions governing the licences and permits to be issued by the Board ;

(k) any other matter except the matters referred to in section 15 which is to be or may be prescribed under this Act.

49. *Act XIV of 1935 to be deemed to be repealed.*—(1) So long as this Act remains in force the Indian Coffee Cess Act, 1935, (XIV of 1935), shall be deemed to be repealed, without prejudice however to the continuing validity of any action taken by the Indian Coffee Cess Committee which is not inconsistent with the provisions of this Act.

(2) All rules made by the Central Board of Revenue under section 9 of the Indian Coffee Cess Act, 1935, (XIV of 1935), shall, until replaced by rules made under sub-section (3) of section 13 of this Act continue to have effect in respect of the duty of customs imposed by section 11 of this Act, as they had effect in respect of the coffee cess imposed by that Act.

50. *Repeals and savings.*—(1) The Coffee Market Expansion Ordinance, 1940, (XIII of 1940), the Coffee Market Expansion (Amendment) Ordinance 1941, (I of 1941), the Coffee Market Expansion (Second Amendment) Ordinance, 1941, (VIII of 1941), and the Coffee Market Expansion (Third Amendment) Ordinance, 1941, (XIII of 1941), are hereby repealed.

(2) Without prejudice to the provisions of section 24 of the General Clauses Act, 1897, (X of 1897),—

(a) any trial or proceeding under the Coffee Market Expansion Ordinance, 1940, (XIII of 1940), pending at the time of the repeal of that Ordinance may be continued and completed as if such trial or proceeding were a trial or proceeding under this Act ;

(b) all registrations made, all licences issued and all other things done under the said Ordinance shall be deemed to have been made, issued or done under this Act.

THE INDIAN PATENTS AND DESIGNS (EXTENSION OF TIME) ACT 1942.

Act No. X of 1942.¹

[14th March, 1942.]

An Act to provide for the extension of the time limited by or under the Indian Patents and Designs Act, 1911, for the doing of acts thereunder.

WHEREAS it is expedient to provide for the extension of the time limited by or under the Indian Patents and Designs Act, 1911 (II of 1911), for the doing of acts thereunder ;

It is hereby enacted as follows :—

1. *Short title, extent and duration.*—(1) This Act may be called the Indian Patents and Designs (Extension of Time) Act, 1942.

(2) It extends to the whole of British India.

(3) It shall be in force until the termination of the present hostilities and for one year thereafter.

¹For Statement of Objects and Reasons, see Gazette of India, 1942, Pt. V, p. 34. The Act has been applied to Br. Baluchistan, see Notfn. No. 80-F., dated the 2nd June, 1942, Gaz. of India, 1942, Pt. I, p. 975.

2. *Power to extend time limits having regard to war circumstances.*—(1) The Controller of Patents and Designs appointed under the Indian Patents and Designs Act, 1911 (II of 1911), may, subject to such conditions, if any, as he thinks fit to impose, extend the time limited by or under that Act for doing any act, where he is satisfied—

(a) that the doing of the act within the time so limited was prevented by a person's being on active service or by any other circumstances arising from the existence of the present hostilities which, in the opinion of the Controller, justify an extension of the time so limited, or

(b) that, by reason of circumstances arising from the existence of the present hostilities, the doing of the act within the time so limited would have been or would be injurious to the rights or interests of the person by or on whose behalf the act is or was to be done or to the public interest.

(2) An extension under this section of the time for doing any act—

(a) may be for any period that the Controller thinks fit, notwithstanding that under the Indian Patents and Designs Act, 1911, (II of 1911), power is conferred to extend the time for doing that act for a specified period only ; and

(b) may be granted, notwithstanding that that time expired before any application or request for extension was made, or that, by reason of that act not having been done within that time, the relevant application, patent, registration or proceeding has ceased or expired, or become void or invalid, or been treated as abandoned, or been refused.

THE INDIAN FINANCE ACT, 1942.

Act No. XII of 1942.¹

[26th March, 1942.]

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the rate of the excise duty on motor spirit leviable under the Motor Spirit (Duties) Act, 1917, to vary the rate of the excise duty on kerosene leviable under section 5 of the Indian Finance Act, 1922, to vary the rate of the excise duty on silver leviable under the Silver (Excise Duty) Act, 1930, to levy customs duties in addition to the duties of customs leviable under the Indian Tariff Act, 1934, to fix maximum rates of postage under the Indian Post Office Act, 1898, to fix rates of income-tax and super-tax and to continue the charge and levy of excess profits tax and fix the rate at which excess profits tax shall be charged.

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to vary the rate of the excise duty on motor spirit leviable under the Motor Spirit (Duties) Act, 1917 (II of 1917), to vary the rate of the excise duty on kerosene leviable under section 5 of the Indian Finance Act, 1922 (XII of 1922), to vary the rate of the excise duty on silver leviable under the Silver (Excise Duty) Act, 1930 (XVIII of 1930), to levy customs duties in addition to the duties of customs leviable under the Indian Tariff Act, 1934 (XXXII of 1934), to fix maximum rates of postage under the Indian Post Office Act, 1898 (VI of 1898), to fix rates of income-tax and super-tax and to continue the charge and levy of excess profits tax and fix the rate at which excess profits tax shall be charged ;

¹For Statement of Objects and Reasons, see Gazette of India, 1942, Pt. V, p. 53.

The Act has been applied to Br. Baluchistan, see Notfn. No. 51-F., dated the 7th April, 1942, Gaz. of India, 1942, Pt. I, p. 682, and to certain partially excluded areas in the Province of Orissa, to a certain extent, see Orissa Govt. Notfn. No. 2363-F., dated the 15th May, 1942.

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Indian Finance Act, 1942.

(2) It extends to the whole of British India.

2. *Fixation of Salt duty.*—The provisions of section 7 of the Indian Salt Act, 1882 (XII of 1882), shall, in so far as they enable the Central Government to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India, be construed as if, for the year beginning on the 1st day of April, 1942, they imposed such duty at the rate of one rupee and four annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section.

*3. *Excise duty on motor spirit.*—In sub-section (1) of section 3 of the Motor Spirit (Duties) Act, 1917 (II of 1917), for the words “ twelve annas ” the words “ fifteen annas ” shall be substituted.

*4. *Excise duty on kerosene.*—In the proviso to section 5 of the Indian Finance Act, 1922 (XII of 1922), for the words “ of two annas and three pies ” the words “ at which customs duty is for the time being leviable under the Indian Tariff Act, 1934 (XXXII of 1934), read with any other enactment for the time being in force ” shall be substituted.

*5. *Excise duty on silver.*—In sub-section (1) of section 3 of the Silver (Excise Duty) Act, 1930 (XVIII of 1930), for the words “ three annas ” the words “ three annas and seven and one-fifth pies ” shall be substituted.

*6. *Additional customs duties.*—Where any goods chargeable with a duty of customs under the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), or under the said Schedule read with any notification of the Central Government for the time being in force, are assessed to duty, there shall up to the 31st day of March, 1943¹, be levied and collected as an addition to and in the same manner as the total amount so chargeable, a sum equal to one-fifth of such amount :

Provided that such addition of duty shall not be levied and collected on—

- (a) salt comprised in Item No. 25 (1) of the said Schedule ;
- (b) motor spirit comprised in Item No. 27 (6) of the said Schedule ;
- (c) raw cotton comprised in Item No. 46 (3) of the said Schedule ; so long as the additional duty of customs imposed by the Cotton Fund Ordinance 1942 (Ord. VIII of 1942), continues to be leviable ;

(d) machinery comprised in Items Nos. 72, 72 (1), 72 (2) and 72 (3) of the said Schedule ;

(e) the following, when the Customs-collector is satisfied that they are the produce or manufacture of Burma, namely :—

- (i) potatoes and onions comprised in Item No. 7 of the said Schedule,
- (ii) coffee comprised in Item No. 9 of the said Schedule,
- (iii) spices comprised in Item No. 9 (3) of the said Schedule,
- (iv) betelnuts comprised in Item No. 9 (5) of the said Schedule,
- (v) cutch and gambier comprised in Item No. 13 (2) of the said Schedule,

(vi) sugar excluding confectionery comprised in Item No. 17 of the said Schedule,

(vii) cigars comprised in Item No. 24 (1) of the said Schedule,

(viii) matches comprised in Item No. 34 (4) (a) of the said Schedule.

*This section came into effect on 1st March, 1942, by virtue of a declaration inserted in the Bill under the Provisional Collection of Taxes Act, 1931 (XVI of 1931).

¹Extended up to 31st March, 1944, see s. 4 of the Indian Finance Act, 1943 (8 of 1943).

7. *Inland postage rates.*—For the year beginning on the 1st day of April, 1942, the Schedule contained in Schedule I to this Act shall be inserted in the Indian Post Office Act, 1898 (VI of 1898), as the First Schedule to that Act.

8. *Income-tax and super-tax.*—(1) Subject to the provisions of sub-sections (2) and (3),—

(a) income-tax for the year beginning on the 1st day of April, 1942, shall be charged at the rates specified in Part I of Schedule II increased in the cases to which sub-paragraph (b) of paragraph A and paragraph B of that Part apply by a surcharge for the purposes of the Central Government at the rate specified therein in respect of each such rate of income-tax, and

(b) rates of super-tax for the year beginning on the 1st day of April, 1942, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (XI of 1922), be those specified in Part II of Schedule II increased in the cases to which paragraphs A, B and C of that Part apply by a surcharge for the purposes of the Central Government at the rate specified therein in respect of each such rate of super-tax.

(2) In making any assessment for the year ending on the 31st day of March, 1943,—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head “Salaries” or under the head “Interest on Securities” or any income from dividends in respect of which he is deemed under section 49B of the Indian Income-tax Act, 1922 (XI of 1922), to have paid income-tax imposed in British India, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1941 (II of 1941), on his total income the same proportion as the amount of such inclusions bears to his total income ;—

(b) where the total income of an assessee, not being a company, includes any income chargeable under the head “Salaries” on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Indian Income-tax Act, 1922 (XI of 1922), the super-tax payable by the assessee on that portion of his total income which consists of such inclusions shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1941 (VII of 1941), on his total income the same proportion as the amount of such inclusions bears to his total income.

(3) In cases to which section 17 of the Indian Income-tax Act, 1922 (XI of 1922), applies, the tax chargeable shall be determined as provided in that section but with reference to the rates imposed by sub-section (1) of this section, and in accordance with the provisions of sub-section (2) of this section where applicable.

(4) For the purposes of this section and of the rates of tax imposed thereby, the expression “total income” means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922 (XI of 1922).

(5) Notwithstanding anything contained in sub-section (1) or sub-section (2) no tax shall be payable in cases to which sub-paragraph (a) of paragraph A of Part I of Schedule II applies where the assessee deposits with the Central Government in such manner and in accordance with such conditions as the Central Government may by rule prescribe for the purposes of this sub-section an amount representing not less than one rupee for every complete unit of twenty-five rupees by which his total income exceeds seven hundred and fifty rupees :

Provided that where the total income includes any income chargeable under the head "Salaries" or under the head "Interest on Securities" or any income from dividends in respect of which he is deemed under section 49B of the Indian Income-tax Act, 1922 (XI of 1922), to have paid income-tax imposed in British India, the amount to be deposited by the assessee in order to obtain the exemption conferred by this sub-section shall be an amount bearing to the minimum required to be deposited under the foregoing provisions of this sub-section the same proportion as the amount of his total income diminished by the amount of such inclusions bears to the amount of his total income.

(6) A deposit made in accordance with the provisions of sub-section (5) shall not in any way be capable of being charged and shall not be liable to attachment under any decree or order of any Civil, Revenue or Criminal Court in respect of any debt or liability incurred by the depositor and neither the Official Assignee nor any receiver appointed under the Provincial Insolvency Act, 1920 (V of 1920), shall be entitled to or have any claim on any such deposit.

(7) Where the total income of an assessee referred to in sub-paragraph (b) of paragraph A of Part I of Schedule II does not exceed six thousand rupees, an amount representing one rupee for every complete unit of two hundred rupees of his total income as reduced by the deductions, if any, allowed under the second proviso to sub-section (1) of section 7, section 15 and sub-section (1) of section 58F of the Indian Income-tax Act, 1922 (XI of 1922), shall be funded for the assessee's benefit and shall be paid to him on such date, not more than twelve months after the termination of the present hostilities, as the Central Government may fix :

Provided that nothing in this sub-section shall apply to any part of total income to which clause (a) of sub-section (2) applies.

Explanation.—In computing the amount to be funded under this sub-section, if there is an incomplete unit amounting to one hundred rupees or more it shall be reckoned as a complete unit of two hundred rupees.

3. *Continuance of and rate of Excess Profits Tax.*—(1) In sub-clause (a) of clause (6) of section 2 of the Excess Profits Tax Act, 1940 (XV of 1940), for the words and figures "31st day of March, 1942" the words and figures "31st day of March, 1943" shall be substituted.

(2) The excess profits tax imposed by section 4 of the Excess Profits Tax Act, 1940 (XV of 1940), shall, in respect of any chargeable accounting period beginning after the 31st day of March, 1942, be an amount equal to sixty-six and two-thirds per cent. of the amount by which the profits of the business during that chargeable accounting period exceed the standard profits.

*10. *Funding of one-tenth of Excess Profits Tax.*—(1) If before the 1st day of July, 1942, or within thirty days of the date on which any excess profits tax, charged under the provisions of the Excess Profits Tax Act, 1940 (XV of 1940), at the rate of sixty-six and two-thirds per cent. becomes payable, whichever of these dates is later, a further sum not exceeding one-fifth of the amount of the said excess profits tax is deposited with the Central Government, the Central Government shall repay, at such date and subject to such conditions as it may hereafter determine, so much of the said excess profits tax as shall be equal to one-tenth of the amount thereof or to one-half of such further sum deposited, whichever is the less :

Provided that, if the said excess profits tax is thereafter reduced, whether by relief given in respect of a deficiency of profits, or by relief given in respect

*Restricted by s. 2 of the Excess Profits Tax Ordinance, 1943 (16 of 1943).

of double excess profits taxation or otherwise, and whether by refund or otherwise, the portion of the tax to be repaid under this section shall be correspondingly reduced :

Provided further that if the said excess profits tax is so reduced, the maximum sum that may be deposited with the Central Government under this section shall also be correspondingly reduced :

Provided further that the provisions of this section shall apply in respect of excess profits tax to which the section applies which became payable before the commencement of this Act, if the further sum referred to herein is deposited before the 1st day of July, 1942 :

Provided further that in relation to excess profits tax payable under the Excess Profits Tax Act, 1940, (XV of 1940), in respect of any profits which are also liable to assessment to excess profits tax under the law in force in the United Kingdom it shall be unnecessary to deposit the further sum referred to in this section, and the amount repayable by the Central Government under this section shall, subject to the first proviso, be one-tenth of the amount of the excess profits tax payable at the rate of sixty-six and two-thirds per cent. under the Excess Profits Tax Act, 1940 (XV of 1940).

(2) Any sum deposited with the Central Government under sub-section (1) shall carry simple interest at the rate of two per cent. per annum and shall be repaid within twelve months of the date of termination of the present hostilities.

*(3) The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this section and for prescribing the manner and conditions referred to in sub-section (5) of section 8.

SCHEDULE I.

Schedule to be inserted in the Indian Post Office Act, 1898.

(See section 7.)

“ THE FIRST SCHEDULE.

INLAND POSTAGE RATES.

(See section 7.)

Letters.

For a weight not exceeding one tola	One and a half annas.
For every tola, or fraction thereof, exceeding one tola	Half an anna.

Postcards.

Single	Nine pies.
Reply	One and a half annas.

Book, Pattern and Sample Packets.

For the first five tolas or fraction thereof	Nine pies.
For every additional two and a half tolas, or fraction thereof, in excess of five tolas	Three pies.

Registered Newspapers.

For a weight not exceeding ten tolas	Quarter of an anna.
For a weight exceeding ten tolas and not exceeding twenty tolas	Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas	Half an anna.
In the case of more than one copy of the same issue of a registered newspaper being carried in the same packet—	
For a weight not exceeding ten tolas	Half an anna.
For every additional five tolas, or fraction thereof, in excess of ten tolas	Quarter of an anna.

Provided that such packet shall not be delivered at any addressee's residence but shall be given to a recognised agent at the post office.

Parcels.

For a weight not exceeding forty tolas	Four annas.
For every forty tolas, or fraction thereof, exceeding forty tolas	Four annas.”

*Supplemented by s. 2 of the Excess Profits Tax Ordinance, 1943 (16 of 1943).

SCHEDULE II.

(See section 8.)

PART I.*Rates of Income-tax.*

A.—In the case of every individual, Hindu undivided family, unregistered firm and other association of persons not being a case to which paragraph B of this Part applies :—

(a) Where the total income does not exceed Rs. 2,000—

	Rates
1. On the first Rs. 750 of total income	<i>Nil.</i>
2. On the next Rs. 1,250 of total income	Six pies in the rupee.

Provided that no tax shall be payable on a total income which does not exceed Rs. 1,500.

(b) Where the total income exceeds Rs. 2,000—

	Rate.	Surcharge.
1. On the first Rs. 1,500 of total income	<i>Nil.</i>	<i>Nil.</i>
2. On the next Rs. 3,500 of total income	Nine pies in the rupee	Six pies in the rupee.
3. On the next Rs. 5,000 of total income	One anna and three pies in the rupee.	Nine pies in the rupee.
4. On the next Rs. 5,000 of total income	Two annas in the rupee	One anna and two pies in the rupee.
5. On the balance of total income	Two annas and six pies in the rupee.	One anna and three pies in the rupee.

B.—In the case of every company and local authority, and in every case in which under the provisions of the Indian Income-tax Act, 1922, income-tax is to be charged at the maximum rate—

	Rate.	Surcharge.
On the whole of total income	Two annas and six pies in the rupee.	One anna and three pies in the rupee.

PART II.*Rates of Super-tax.*

A.—In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraphs B and C of this Part apply—

	Rate.	Surcharge.
1. On the first Rs. 25,000 of total income	<i>Nil.</i>	<i>Nil.</i>
2. On the next Rs. 10,000 of total income	One anna in the rupee	Six pies in the rupee.
3. On the next Rs. 20,000 of total income	Two annas in the rupee	One anna in the rupee.
4. On the next Rs. 70,000 of total income	Three annas in the rupee	One anna and six pies in the rupee.
5. On the next Rs. 75,000 of total income	Four annas in the rupee	Two annas in the rupee.
6. On the next Rs. 1,50,000 of total income	Five annas in the rupee	Two annas and six pies in the rupee.
7. On the next Rs. 1,50,000 of total income	Six annas in the rupee	Three annas in the rupee.
8. On the balance of total income	Seven annas in the rupee	Three annas and six pies in the rupee.

B.—In the case of every local authority—

	Rate.	Surcharge.
On the whole of total income	One anna in the rupee	Six pies in the rupee.

C.—In the case of an association of persons being a co-operative society, other than the Sanikatta Saltowners' Society in the Bombay Presidency, for the time being registered under the Co-operative Societies Act, 1912, or under an Act of the Provincial Legislature governing the registration of Co-operative Societies—

	Rate.	Surcharge.
1. On the first Rs. 25,000 of total income	<i>Nil.</i>	<i>Nil.</i>
2. On the balance of total income	One anna in the rupee	Six pies in the rupee.

D.—In the case of every company—

	Rate.
On the whole of total income	One anna and six pies in the rupee.

THE WEEKLY HOLIDAYS ACT, 1942.

Act No. XVIII of 1942.¹

[3rd April, 1942.]

An Act to provide for the grant of weekly holidays to persons employed in shops, restaurants and theatres.

WHEREAS it is expedient to provide for the grant of weekly holidays to persons employed in shops, restaurants and theatres ;

It is hereby enacted as follows :—

1. Short title, extent and commencement.—(1) This Act may be called the Weekly Holidays Act, 1942.

(2) It extends to the whole of British India.

(3) It shall come into force in a Province or in a specified area within a Province only if the Provincial Government by notification in the official Gazette so directs.

2. Definitions.—In this Act, unless there is anything repugnant in the subject or context,—

(a) “ establishment ” means a shop, restaurant or theatre ;

(b) “ day ” means a period of twenty-four hours beginning at midnight ;

(c) “ restaurant ” means any premises in which is carried on principally or wholly the business of supplying meals or refreshments to the public or a class of the public for consumption on the premises but does not include a restaurant attached to a theatre ;

(d) “ shop ” includes any premises where any retail trade or business is carried on, including the business of a barber or hair dresser, and retail sales by auction, but excluding the sale of programmes, catalogues and other similar sales at theatres ;

(e) “ theatre ” includes any premises intended principally or wholly for the presentation of moving pictures, dramatic performances, or stage entertainments ;

(f) “ week ” means a period of seven days beginning at midnight on Saturday.

3. Closing of shops.—(1) Every shop shall remain entirely closed on one day of the week, which day shall be specified by the shop-keeper in a notice permanently exhibited in a conspicuous place in the shop.

(2) The day so specified shall not be altered by the shop-keeper more often than once in three months.

4. Weekly holidays in shops, restaurants, and theatres.—Every person employed otherwise than in a confidential capacity or in a position of management in any shop, restaurant or theatre shall be allowed in each week a holiday of one whole day :

Provided that nothing in this section shall apply to any person whose total period of employment in the week including any days spent on authorised leave is less than six days or entitle to an additional holiday a person employed in a shop who has been allowed a whole holiday on the day on which the shop has remained closed in pursuance of section 3.

5. Additional half-day closing or holiday.—(1) The Provincial Government may, by notification in the official Gazette, require in respect of shops or

¹For Statement of Objects and Reasons, see Gazette of India, 1941, Pt. V, p. 142 ; and for Report of Select Committee, see *ibid*, 1942, Pt. V, p. 55.

any specified class of shops that they shall be closed at such hour in the afternoon of one week-day in every week in addition to the day provided for by section 3 as may be fixed by the Provincial Government, and, in respect of theatres and restaurants or any specified class of either or both, that every person employed therein otherwise than in a confidential capacity or in a position of management shall be allowed in each week an additional holiday of one-half-day commencing at such hour in the afternoon as may be fixed by the Provincial Government.

(2) The Provincial Government may, for the purposes of this section, fix different hours for different shops or different classes of shops or for different areas or for different times of the year.

(3) The weekly day on which a shop is closed in pursuance of a requirement under sub-section (1) shall be specified by the shop-keeper in a notice permanently exhibited in a conspicuous place in the shop and shall not be altered by the shop-keeper more often than once in three months.

6. *No deduction or abatement to be made from wages.*—No deduction or abatement of the wages of any person employed in an establishment to which this Act applies shall be made on account of any day or part of a day on which the establishment has remained closed or a holiday has been allowed in accordance with sections 3, 4 and 5, and if such person is employed on the basis that he would not ordinarily receive wages for such day or part of a day he shall none the less be paid for such day or part of a day the wages he would have drawn had the establishment not remained closed or the holiday not been allowed on that day or part of a day.

7. *Inspectors.*—(1) The Provincial Government may, by notification in the official Gazette, appoint persons to be inspectors for the purposes of this Act within such local limits as it may assign to each such person.

(2) Every inspector appointed under this section shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

8. *Powers of inspectors.*—(1) Subject to any rules made in this behalf by the Provincial Government, an inspector may, within the local limits for which he is appointed,—

(a) enter and remain in any establishment to which this Act applies with such assistants, if any, being servants of the Crown, as he thinks fit ;

(b) make such examination of any such establishment and of any record, register or notice maintained therein in pursuance of rules made under clause (c) of sub-section (2) of section 10, and take on the spot or otherwise such evidence of any person as he may deem necessary for carrying out the purposes of this Act ;

(c) exercise such other powers as may be necessary for carrying out the purposes of this Act.

(2) Any person having the custody of any record, register or notice maintained in pursuance of rules made under clause (c) of sub-section (2) of section 10 shall be bound to produce it when so required by the inspector, but no person shall be compellable to answer any question if the answer may tend directly or indirectly to criminate himself.

9. *Penalties.*—In the event of any contravention of the provisions of section 3, of section 4, of a requirement imposed by notification under sub-section (1) of section 5, of section 6, or of the rules made under clause (c) of sub-section (2) of section 10, the proprietor or other person responsible for the management of the establishment in which such contravention takes place shall be

punishable with fine which may extend, in the case of the first offence, to twenty-five rupees, and, in the case of a second or subsequent offence, to two hundred and fifty rupees.

10. *Rules.*—(1) The Provincial Government may, subject to the condition of previous publication by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) define the persons who shall be deemed to be employed in a confidential capacity or in a position of management for the purpose of sections 4 and 5 ;

(b) regulate the exercise of their powers and the discharge of their duties by inspectors ;

(c) require registers and records to be maintained and notices to be displayed in establishments to which this Act applies and prescribe the form and contents thereof.

11. *Power of exemption and suspension.*—The Central Government in respect of establishments under its control, and the Provincial Government in respect of all other establishments within the Province may, subject to such conditions, if any, as it thinks fit to impose, exempt any establishment to which this Act applies from all or any specified provisions of this Act, and may, on any special occasion in connection with a fair or festival or a succession of public holidays, suspend for a specified period the operation of this Act.

THE INDUSTRIAL STATISTICS ACT, 1942.

Act No. XIX of 1942.¹

[3rd April, 1942.]

An Act to facilitate the collection of statistics of certain kinds relating to industries.

WHEREAS it is expedient to facilitate the collection of statistics of certain kinds relating to industries ;

It is hereby enacted as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Industrial Statistics Act, 1942.

(2) It extends to the whole of British India.

(3) It shall come into force in a Province on such date as the Provincial Government may, by notification in the official Gazette, appoint in this behalf for such Province.

2. *Definition.*—In this Act “ prescribed ” means prescribed in rules made under this Act or in any form prescribed by those rules.

¹For Statement of Objects and Reasons, see Gazette of India, 1942, Pt. V, p. 41.

The Act has been applied to the partially excluded areas of the Province of Orissa, see Orissa Government Notification No. 8481-III-L-27|42-Com. (c), dated the 1st September 1942, and to the Darjeeling Dist. and the partially excluded areas of the Mynensingh Dist., with effect from 11th March 1943, see Ben. Government Notification No. 923-Com., dated the 9th March 1943.

²In Orissa, including the partially excluded areas, on 1st September 1942, see Orissa Government Notification No. 8482. III. L-27|42, Com., dated 11th September 1942 ; and in Bengal, except the Chittagong Hill-tracts, on 15th March 1943, see Ben. Government Notification No. 924. Com., dated the 9th March 1943.

3. *Collection of Statistics.*—(1) The Provincial Government may, by notification in the official Gazette, direct that statistics shall be collected relating to any of the following matters, namely :—

- (a) any matter relating to factories,
- (b) any of the following matters so far as they relate to welfare of labour and conditions of labour, namely :—
 - (i) prices of commodities,
 - (ii) attendance,
 - (iii) living conditions, including housing, water supply and sanitation,
 - (iv) indebtedness,
 - (v) rents of dwelling-houses,
 - (vi) wages and other earnings,
 - (vii) provident and other funds provided for labour,
 - (viii) benefits and amenities provided for labour,
 - (ix) hours of work,
 - (x) employment and unemployment,
 - (xi) industrial and labour disputes,

and thereupon the provisions of this Act shall apply to the collection of those statistics.

(2) In clause (a) of sub-section (1), "factory" means a factory as defined in clause (j) of section 2 of the Factories Act, 1934, (XXV of 1934), or any premises deemed to be a factory in pursuance of a declaration made under sub-section (1) of section 5 of that Act.

4. *Appointment of statistics authority.*—The Provincial Government may appoint an officer to be the statistics authority for the purposes of the collection of any statistics under this Act.

5. *Power of statistics authority to call for returns and information.*—(1) The statistics authority may serve or cause to be served on any person a notice requiring him to furnish, at such intervals and in such form and with such particulars as may be prescribed, such information or returns relating to any matter in respect of which statistics are to be collected and to such authority or person and in such manner and at such times as may be prescribed.

(2) The notice referred to in sub-section (1) may be served by post.

6. *Right of access to record or document.*—The statistics authority or any person authorized by him in writing in this behalf shall, for the purposes of the collection of any statistics under this Act, have access to any relevant record or document in the possession of any person required to furnish any information or return under this Act, and may enter at any reasonable time any premises wherein he believes such record or document to be, and may ask any question necessary for obtaining any information required to be furnished under this Act.

7. *Restriction on the publication of returns and information.*—(1) No individual return, and no part of an individual return, made, and no information with respect to any particular undertaking given, for the purposes of this Act, shall, without the previous consent in writing of the owner for the time being of the undertaking in relation to which the return or information was made or given, or his authorized agent, be published in such manner as would enable any particulars to be identified as referring to a particular undertaking.

(2) Except for the purposes of a prosecution under this Act or under the Indian Penal Code, (XLV of 1860), no person not engaged in connection with the collection of statistics under this Act shall be permitted to see any individual return or information referred to in sub-section (1).

8. *Penalties.*—If any person required to furnish any information or any return—

- (a) wilfully refuses or without lawful excuse neglects to furnish such information or return as required under this Act, or

(b) wilfully furnishes or causes to be furnished any information or return which he knows to be false, or

(c) refuses to answer or wilfully gives a false answer to any question necessary for obtaining any information required to be furnished under this Act,

or if any person impedes the right of access to relevant records and documents or the right of entry conferred by section 6, he shall for each such offence be punishable with fine which may extend to five hundred rupees, and in the case of a continuing offence ¹[with a further fine] which may extend to two hundred rupees for each day after the first during which the offence continues ; and in respect of false information, returns or answers the offence shall be deemed to continue until true information or a true return or answer has been given or made.

9. *Penalty for improper disclosure of information or returns.*—If any person engaged in connection with the collection of statistics under this Act wilfully discloses any information or the contents of any return given or made under this Act otherwise than in the execution of his duties under this Act or for the purposes of the prosecution of an offence under this Act or under the Indian Penal Code, (XLV of 1860), he shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to one thousand rupees, or with both imprisonment and fine.

10. *Cognizance of offences.*—No prosecution under section 8 shall be instituted except by or with the sanction of the statistics authority and no prosecution under section 9 shall be instituted except by or with the sanction of the Provincial Government.

11. *Power of the Central Government to give directions.*—The Central Government may give directions to a Provincial Government as to the carrying into execution of this Act in the Province.

12. *Power of Provincial Governments to make rules.*—(1) The Provincial Government may, subject to the condition of previous publication by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) Without prejudice to the generality of the foregoing powers, rules may be made under this section regulating the exercise of the right of access to documents and the right of entry conferred by section 6.

THE FEDERAL COURT (SUPPLEMENTAL POWERS) ACT, 1942. **Act No. XXVI of 1942.²**

[1st October, 1942.]

An Act to confer supplemental powers on the Federal Court.

WHEREAS it is expedient to confer certain supplemental powers on the Federal Court ;

It is hereby enacted as follows :—

1. *Short title.*—This Act may be called the Federal Court (Supplemental Powers) Act, 1942.

2. *Power to delegate duties.*—The Federal Court shall have power to delegate to the Registrar of the Court or any other official of the Court, by name or generally by designation, any judicial, quasi-judicial and non-judicial duties and the Registrar or such official in the discharge of any such delegated duties shall have power to administer oaths.

¹Subst., Repealing and Amending Act, 1942 (25 of 1942).

²For Statement of Objects and Reasons, see Gazette of India, 1941, Pt. V, p. 189 ; and for Report of Select Committee, see *ibid*, 1942, Pt. V, p. 35.

The Act has been applied to the Chota Nagpur Division of the Province of Bihar, see Bihar Government Notification No. 2521-J[A-42]42, dated the 20th November 1943, and to the Santhal Parganas Dist., see Bihar Government Notification No. 2522-J[A-42]42, dated the 20th November, 1943.

THE INDIAN FINANCE ACT, 1943.

Act No. VIII of 1943.¹

[29th March, 1943.]

An Act to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898, to continue for a further period of one year the additional duties of customs imposed by section 6 of the Indian Finance Act, 1942, to fix rates of income-tax and super-tax, to continue the charge and levy of excess profits tax and fix the rate at which excess profits tax shall be charged, and to amend the Indian Finance (Supplementary and Extending) Act, 1931.

WHEREAS it is expedient to fix the duty on salt manufactured in, or imported by land into, certain parts of British India, to fix maximum rates of postage under the Indian Post Office Act, 1898 (VI of 1898), to continue for a further period of one year the additional duties of customs imposed by section 6 of the Indian Finance Act, 1942 (XII of 1942), to fix rates of income-tax and super-tax, to continue the charge and levy of excess profits tax and fix the rate at which excess profits tax shall be charged, and to amend the Indian Finance (Supplementary and Extending) Act, 1931 ;

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Indian Finance Act, 1943.

(2) It extends to the whole of British India.

2. *Fixation of salt duty.*—The provisions of section 7 of the Indian Salt Act, 1882 (XII of 1882), shall, in so far as they enable the Central Government to impose by rule made under that section a duty on salt manufactured in, or imported into, any part of British India, be construed as if, for the year beginning on the 1st day of April, 1943, they imposed such duty at the rate of one rupee and four annas per maund of eighty-two and two-sevenths pounds avoirdupois of salt manufactured in, or imported by land into, any such part, and such duty shall, for all the purposes of the said Act, be deemed to have been imposed by rule made under that section.

3. *Inland postage rates.*—For the year beginning on the 1st day of April, 1943, the Schedule contained in Schedule I to this Act shall be inserted in the Indian Post Office Act, 1898 (VI of 1898), as the First Schedule to that Act.

4. *Continuation of additional duties of customs imposed by section 6, Act XII of 1942.*—The additional duties of customs on certain goods chargeable with a duty of customs under the First Schedule to the Indian Tariff Act, 1934 (XXXII of 1934), or under the said Schedule read with any notification of the Central Government for the time being in force, imposed up to the 31st day of March, 1943, by section 6 of the Indian Finance Act, 1942 (XII of 1942), shall be levied and collected as provided in that section up to the 31st day of March, 1944.

¹For Statement of Objects and Reasons, see Gazette of India, 1943, Pt.-V, p. 80.

The Act has been applied to the Darjeeling Dist. and to the partially excluded areas of the Mymensingh Dist., with effect from 29th March 1943, see Ben. Government Notification No. 8101-F.B., dated the 8th May, 1943 ; to the Chittagong Hill-tracts, subject to certain exceptions, with effect from 1st April 1943, see Ben. Government Notification No. 635, dated the 7th May 1943 and to the partially excluded areas in the Province of Orissa, see Orissa Government Notification No. 16450-Tax-543-F. (c), dated the 4th August 1943.

5. Income-tax and super-tax.—(1) Subject to the provisions of sub-sections (2) and (3),—

(a) income-tax for the year beginning on the 1st day of April, 1943, shall be charged at the rates specified in Part I of Schedule II increased in the cases to which sub-paragraph (b) of paragraph A and paragraph B of that Part apply by a surcharge for the purposes of the Central Government at the rate specified therein in respect of each such rate of income-tax, and

(b) rates of super-tax for the year beginning on the 1st day of April, 1943, shall, for the purposes of section 55 of the Indian Income-tax Act, 1922 (XI of 1922), be those specified in Part II of Schedule II increased in the cases to which paragraphs A, B and C of that Part apply by a surcharge for the purposes of the Central Government at the rate specified therein in respect of each such rate of super-tax.

(2) In making any assessment for the year ending on the 31st day of March, 1944.—

(a) where the total income of an assessee, not being a company, includes any income chargeable under the head “Salaries” or under the head “Interest on Securities” or any income from dividends in respect of which he is deemed under section 49B of the Indian Income-tax Act, 1922 (XI of 1922), to have paid income-tax imposed in British India, the income-tax payable by the assessee on that part of his total income which consists of such inclusions shall be an amount bearing to the total amount of income-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1942 (XII of 1942), on his total income the same proportion as the amount of such inclusions bears to his total income :

(b) where the total income of an assessee, not being a company, includes any income chargeable under the head “Salaries” on which super-tax has been or might have been deducted under the provisions of sub-section (2) of section 18 of the Indian Income-tax Act, 1922 (XI of 1922), the super-tax payable by the assessee on that portion of his total income which consists of such inclusions shall be an amount bearing to the total amount of super-tax payable according to the rates applicable under the operation of the Indian Finance Act, 1942 (XII of 1942), on his total income the same proportion as the amount of such inclusions bears to his total income.

(3) In cases to which section 17 of the Indian Income-tax Act, 1922 (XI of 1922), applies, the tax chargeable shall be determined as provided in that section but with reference to the rates imposed by sub-section (1) of this section, and in accordance with the provisions of sub-section (2) of this section where applicable.

(4) For the purposes of this section and of the rates of tax imposed thereby the expression “total income” means total income as determined for the purposes of income-tax or super-tax, as the case may be, in accordance with the provisions of the Indian Income-tax Act, 1922 (XI of 1922).

(5) Notwithstanding anything contained in sub-section (1) or sub-section (2) no tax shall be payable in cases to which sub-paragraph (a) of paragraph A of Part I of Schedule II applies where the assessee deposits with the Central Government in such manner and in accordance with such conditions as the Central Government may by rule prescribe for the purposes of this sub-section an amount representing not less than one rupee for every complete unit of twenty-five rupees by which his total income exceeds seven hundred and fifty rupees.

(6) A deposit made in accordance with the provisions of sub-section (5) shall not in any way be capable of being charged and shall not be liable to attachment under any decree or order of any Civil, Revenue or Criminal

Court in respect of any debt or liability incurred by the depositor and neither the Official Assignee nor any receiver appointed under the Provincial Insolvency Act, 1920 (V of 1920), shall be entitled to or have any claim on any such deposit.

(7) Where the total income of an assessee referred to in sub-paragraph (b) of paragraph A of Part I of Schedule II does not exceed six thousand rupees, an amount representing one rupee for every complete unit of two hundred rupees of his total income as reduced by the income, if any, exempt from tax under any provision of the Indian Income-tax Act, 1922 (XI of 1922), or any notification issued thereunder shall be funded for the assessee's benefit and shall be paid to him on such date, not more than twelve months after the termination of the present hostilities, as the Central Government may fix :

Explanation.—In computing the amount to be funded under this sub-section if there is an incomplete unit amounting to one hundred rupees or more it shall be reckoned as a complete unit of two hundred rupees.

(8) Notwithstanding anything contained in sub-section (7) of section 8 of the Indian Finance Act, 1942 (XII of 1942), the amount to be funded under that sub-section for the assessee's benefit in respect of any assessment for the year ending on the 31st day of March, 1943 shall be calculated on his total income as reduced by the income, if any, exempt from tax under any provision of the Indian Income-tax Act, 1922 (XI of 1922), or any notification issued thereunder.

(9) The Central Government may, by notification in the official Gazette, make rules prescribing the manner and conditions referred to in sub-section (5).

6. *Continuance of and rate of excess profits tax.*—(1) In sub-clause (a) of clause (6) of section 2 of the Excess Profits Tax Act, 1940 (XV of 1940), for the words and figures "31st day of March, 1943" the words and figures "31st day of March, 1944" shall be substituted.

(2) The excess profits tax imposed by section 4 of the Excess Profits Tax Act, 1940 (XV of 1940), shall, in respect of any chargeable accounting period beginning after the 31st day of March, 1943, be an amount equal to sixty-six and two-thirds per cent. of the amount by which the profits of the business during that chargeable accounting period exceed the standard profits.

7. *Amendment of section 5, Indian Finance (Supplementary and Extending) Act, 1931.*—In section 5 of the Indian Finance (Supplementary and Extending) Act, 1931, the words "motor spirit or kerosene" and the words and figures "or under the Motor Spirit (Duties) Act, 1917, or under the Indian Finance Act, 1922" shall be omitted, and for the words "or under any of the said Acts" the words "or under the said Act" shall be substituted.

SCHEDULE I.

Schedule to be inserted in the Indian Post Office Act, 1898.

(See section 3.)

"THE FIRST SCHEDULE.

INLAND POSTAGE RATES.

(See section 7.)

Letters.

For a weight not exceeding one tola	.	.	.	.	.	One and a half annas.
For every tola, or fraction thereof, exceeding one tola	.	.	.	.	.	One anna.

Postcards.

Single	.	.	.	.	.	Nine pies.
Reply	.	.	.	.	.	One and a half annas.

SCHEDULE I—contd.*Book, Pattern and Sample Packets.*

For the first five tolas or fraction thereof	Nine pies.
For every additional two and a half tolas, or fraction thereof, in excess of five tolas	Three pies.
<i>Registered Newspapers.</i>	
For a weight not exceeding ten tolas	Quarter of an anna.
For a weight exceeding ten tolas and not exceeding twenty tolas	Half an anna.
For every twenty tolas, or fraction thereof, exceeding twenty tolas	Half an anna.
In the case of more than one copy of the same issue of a registered newspaper being carried in the same packet—	
For a weight not exceeding ten tolas	Half an anna.
For every additional five tolas, or fraction thereof, in excess of ten tolas	Quarter of an anna.
Provided that such packet shall not be delivered at any addressee's residence but shall be given to a recognised agent at the post office.	

Parcels.

For a weight not exceeding forty tolas	Six annas.
For every forty tolas, or fraction thereof exceeding forty tolas	Four annas."

SCHEDULE II.

(See section 5.)

PART I.*Rates of Income-tax.*

A.—In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraph B of this Part applies :—

(a) Where the total income does not exceed Rs. 2,000—

	Rate.
1. On the first Rs. 750 of total income	Nil.
2. On the next Rs. 1,250 of total income.	Six pies in the rupee.
Provided that no tax shall be payable on a total income which does not exceed Rs. 1,500.	

(b) Where the total income exceeds Rs. 2,000—

	Rate.	Surcharge.
1. On the first Rs. 1,500 of total income	Nil	Nil.
2. On the next Rs. 3,500 of total income	Nine pies in the rupee	Six pies in the rupee.
3. On the next Rs. 5,000 of total income	One anna and three pies in the rupee.	Ten pies in the rupee.
4. On the next Rs. 5,000 of total income.	Two annas in the rupee.	One anna and four pies in the rupee.
5. On the balance of total income	Two annas and six pies in the rupee.	One anna and eight pies in the rupee.

B.—In the case of every company and local authority, and in every case in which under the provisions of the Indian Income-tax Act, 1922, income-tax is to be charged at the maximum rate—

	Rate.	Surcharge.
On the whole of total income	Two annas and six pies in the rupee.	One anna and eight pies in the rupee.

PART II.*Rates of Super-tax.*

A.—In the case of every individual, Hindu undivided family, unregistered firm and other association of persons, not being a case to which paragraphs B and C of this Part apply—

	Rate.	Surcharge.
1. On the first Rs. 25,000 of total income	Nil	Nil.
2. On the next Rs. 10,000 of total income	One anna in the rupee	One anna in the rupee.
3. On the next Rs. 20,000 of total income.	Two annas in the rupee	One anna and six pies in the rupee.
4. On the next Rs. 70,000 of total income	Three annas in the rupee	Two annas in the rupee.
5. On the next Rs. 75,000 of total income.	Four annas in the rupee	Two annas and six pies in the rupee.
6. On the next Rs. 1,50,000 of total income	Five annas in the rupee	Three annas in the rupee.
7. On the next 1,50,000 of total income	Six annas in the rupee	Three annas in the rupee.
8. On the balance of total income	Seven annas in the rupee	Three annas and six pies in the rupee.

B.—In the case of every local authority—

	Rate.	Surcharge.
On the whole of total income	One anna in the rupee .	One anna in the rupee.

C.—In the case of an association of persons being a co-operative society, other than the Sanikatta Saltowners' Society in the Bombay Presidency, for the time being registered under the Co-operative Societies Act, 1912, or under an Act of the Provincial Legislature governing the registration of Co-operative Societies—

	Rate.	Surcharge.
1. On the first Rs. 25,000 of total income	<i>Nil</i>	<i>Nil</i> .
2. On the balance of total income	One anna in the rupee .	One anna in the rupee.

D.—In the case of every company—

	Rate.
On the whole of total income	Two annas in the rupee.

THE RECIPROCITY ACT, 1943.

Act No. IX of 1943.¹

[31st March 1943.]

An Act to make provisions on a basis of reciprocity in regard to entry into, travel, residence, the acquisition, holding or disposal of property, the enjoyment of educational facilities, the holding of public office, or the carrying on of any occupation, trade, business or profession in British India by, and the franchise in British India of, persons domiciled in British Possessions.

Preamble.—WHEREAS it is expedient to make provisions on a basis of reciprocity in regard to entry into, travel residence, the acquisition, holding or disposal of property, the enjoyment of educational facilities, the holding of public office, or the carrying on of any occupation, trade, business or profession in British India by, and the franchise in British India of, persons domiciled in British Possessions :

It is hereby enacted as follows :—

1. *Short title, extent and commencement.*—(1) This Act may be called the Reciprocity Act, 1943.

(2) It extends to the whole of British India.

²[(3) It shall come into force on the 1st day of September, 1943.]

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context—

²[(a) 'British possession' means any part of His Majesty's dominions exclusive of British India, and includes a protectorate or other territory administered by a British possession as a mandatory on behalf of the League of Nations ; and where parts of those dominions are under both a central and a local legislature, the expression shall mean either each part under a local legislature or all parts under the central legislature'.]

(b) "entry" includes landing at any port in British India during the stay in British India of a ship or aircraft on its way to a destination outside British India.

¹For Statement of Objects and Reasons, see Gazette of India, 1941, Pa.-V, p. 162 ; and for Report of Select Committee, see *ibid*, 1943, Pt. V, p. 57.

The Act has been applied to Br. Baluchistan, see Notification No. 126-F., dated the 18th August, 1943, Gazette of India, 1943, Pt. I, p. 916.

²Subst., Reciprocity (Amdt.) Act, 1943 (22 of 1943).

¹[3. *Power of Central Government to impose reciprocal disabilities on persons domiciled in British possessions.*—Where by the law or practice of any British possession persons of Indian origin are subject in that British possession to disabilities in respect of entry into, or travel, residence, the acquisition, holding or disposal of property, the enjoyment of educational facilities, the holding of public office, the carrying on of any occupation, trade, business or profession, or the exercise of the franchise in, that British possession, to which in respect of the like matters in British India persons domiciled in that British possession are not subject in British India, the Central Government may, by notification in the official Gazette, direct that the same disabilities or disabilities as similar thereto as may be shall, notwithstanding anything contained in any other law for the time being in force, be imposed in British India on persons not being of Indian origin who are domiciled in that British possession.]

4. *Burden of proof on person claiming exemption.*—If any person alleged to be domiciled in any British Possession and to be subject to the provisions of this Act pleads that he is not so domiciled, or that the provisions of this Act do not apply to him, the onus of proving the truth of such a plea shall be on him.

¹[5. *Direction imposing disabilities in respect of entry, travel and residence not to apply to armed forces.*—Any direction made by the Central Government under section 3 imposing disabilities in respect of entry into or travel or residence in British India upon persons domiciled in a British possession shall not, until the expiry of six months after the termination of the present hostilities, apply to any person domiciled in that British possession who is a member of its armed forces.]

¹[6. *Power to make rules.*—(1) The Central Government may, by notification in the official Gazette, make rules for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, rules made under this section may provide—

(a) for the setting up of machinery to ascertain the disabilities in respect of any of the matters specified in section 3 to which persons of Indian origin are subject in any British possession ;

(b) for the establishment of a suitable agency to administer the rules and for defining its functions and powers ;

(c) for specifying the disabilities that shall, when a direction has been made under section 3, be imposed in British India on persons not being of Indian origin who are domiciled in any British possession and for the imposition on them of the disabilities so specified ;

(d) for the enforcement, by the prescription of a penalty by way of imprisonment or fine or both, of any rule made under clause (c) ;

(e) for authorising the arrest of any person contravening or reasonably suspected of contravening any rule made under clause (c), and for prescribing the duties of public servants and others in regard to such arrests.]

²[7. *Repeal of Act III of 1924.*—The Immigration into India Act, 1924 (III of 1924), is hereby repealed.]

¹Subst. Reciprocity (Amendment) Act, 1943 (22 of 1943).

²Added *ibid.*

THE TOBACCO (EXCISE DUTY) ACT, 1943.

Act No. X of 1943.¹

[31st March, 1943.]

An Act to provide for the imposition and collection of excise duties on tobacco.

WHEREAS it is expedient to impose excise duties on tobacco and to provide for the collection thereof ;

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Tobacco (Excise Duty) Act, 1943.

(2) It extends to the whole of British India.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “tobacco” means any form of tobacco, whether cured or uncured, and whether manufactured or not, and includes the leaf, stalks and stem of the tobacco plant, but does not include any part of a tobacco plant while still attached to the earth ;

(b) “curing” includes wilting, drying, fermenting and any process for rendering tobacco fit for marketing or manufacture ;

(c) “manufacture” means the preparation of cigarettes, cigars, cheroots, *biris*, cigarette or pipe or hookah tobacco, chewing tobacco, or snuff ; and the word “manufacturer” shall be construed accordingly and shall include not only a person who employs hired labour for the production of these commodities, but also any person who engages in their production on his own account if his products are intended for sale ;

(d) “sale” and “purchase”, with their grammatical variations and cognate expressions, mean any transfer of the possession of goods by one person to another in the ordinary course of trade or business for cash or deferred payment or other valuable consideration ;

(e) “wholesale dealer” means a person who buys or sells tobacco wholesale for the purpose of trade or manufacture, and includes a broker or commission agent who, in addition to making contracts for the sale or purchase of tobacco for others, stocks tobacco belonging to others as an agent for the purpose of sale ;

(f) “prescribed” means prescribed by rules made under this Act ;

(g) “factory” means any premises wherein tobacco is manufactured.

3. *Imposition and collection of excise duties on tobacco.*—There shall be levied and collected in such manner as may be prescribed duties of excise as, and at the rates, set forth in the Schedule on all cured tobacco in British India on the 1st day of April, 1943, on all tobacco cured in British India on or after that date, and on all tobacco products mentioned in the Schedule and manufactured in British India on or after that date.

4. *Determination of value for the purposes of duty.*—Where under this Act any article is chargeable with duty at a rate dependent on the value of the article, such value shall be deemed to be the wholesale cash price for which an article of the like kind and quality is sold or is capable of being sold for delivery at the place of manufacture and at the time of its removal therefrom, without any abatement or deduction whatever except trade discount and the amount of the duty then payable.

¹For Statement of Objects and Reasons, see Gazette of India, 1943, Pt.-V, p. 85.

The Act has been applied to the Darjeeling Dist. and to the partially excluded areas of the Mymensingh Dist., with effect from 1st April 1943, see Ben. Government Notification No. 518-A.R., dated the 6th April 1943, and to the Chittagong Hill-tracts, with effect from 1st April 1943, see Ben. Government Notification No. 54-S., dated the 24th April 1943.

5. *Power of Central Government to impose customs duty on cured tobacco.*

—The Central Government may, by notification in the official Gazette, impose on cured tobacco or any tobacco product mentioned in the Schedule, brought into British India from the territory of any Indian State, not being territory which has been declared under section 5 of the Indian Tariff Act, 1934 (XXXII of 1934), to be foreign territory for the purposes of that section, a duty of customs equivalent to the excise duty imposed by this Act on the like tobacco cured or the like tobacco product manufactured in British India.

6. *Certain operations to be subject to licence.*—From such date as may be specified in this behalf by the Central Government by notification in the official Gazette, no person shall engage in the curing, wholesale purchase or sale (whether on his own account or as a broker or commission agent), storage, or manufacture, of tobacco, except under the authority and in accordance with the terms and conditions of a licence granted under this Act.

7. *Restriction on possession of unmanufactured tobacco.*—From such date as may be specified in this behalf by the Central Government by notification in the official Gazette, no person shall, except as provided by the rules made under this Act, have in his possession unmanufactured tobacco in excess of such quantity as may be prescribed for the purposes of this section as the maximum amount of unmanufactured tobacco or of any variety of unmanufactured tobacco which may be possessed at any one time by such a person.

8. *Form and conditions of licence.*—Every licence under section 6 shall be granted for such area, if any, for such period, subject to such restrictions and on such conditions, and in such form and containing such particulars, as may be prescribed.

9. *Penalty for contravention of section 6 or section 7.*—Whoever contravenes any of the provisions of section 6 or section 7 shall be punishable with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

10. *Penalty for evasion of duty or failure to supply information.*—Whoever evades or attempts to evade the payment of any duty payable under this Act, or fails to supply any information which he is required by the rules made under this Act to supply, or (unless with a reasonable belief, the burden of proving which shall be upon him, that the information supplied by him is true) supplies false information, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to two thousand rupees, or with both.

11. *Power of Courts to order forfeiture of tobacco.*—Any Court trying an offence under this Act may order that any tobacco in respect of which the Court is satisfied that an offence under this Act has been committed, shall, together with the packages or coverings thereof, be forfeited to His Majesty.

12. *Recovery of duty, etc.*—In respect of duty and other sums payable to the Central Government under any of the provisions of this Act or of the rules made thereunder, the officer empowered by the Central Board of Revenue to levy such duty or require the payment of such sums may prepare a certificate signed by him specifying the amount due from the person liable to pay the same and send it to the Collector of the district in which such person resides or conducts his business and the said Collector, on receipt of such certificate, shall proceed to recover from the said person the amount specified therein as if it were an arrear of land-revenue.

13. *Application of the provisions of Act VIII of 1878 to the duties on tobacco.*—The Central Government may, by notification in the official Gazette, declare that any of the provisions of the Sea Customs Act, 1878 (VIII of 1878), relating to the levy of and exemption from customs duties, drawback of duty, warehousing, offences and penalties, confiscation, and procedure relating to offences and appeals shall, with such modifications and alterations

as it may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duties on tobacco imposed by section 3.

14. *Power of Central Government to make rules.*—(1) The Central Government may, by notification in the official Gazette, make rules to carry into effect the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may—

(i) provide for the assessment and collection of the duties, the authorities by whom functions under this Act are to be discharged, the issue of notices requiring payment, the manner in which the duties shall be payable, and the recovery of duty not paid ;

(ii) prohibit the curing or manufacture of tobacco except on land and premises approved for the purpose ;

(iii) regulate the removal of tobacco from the place where grown, cured, stored or manufactured and its transport to or from the premises of a licensed curer, wholesale dealer or manufacturer, or a bonded warehouse or to a market ;

(iv) regulate the curing, storage, wholesale sale and manufacture of tobacco, and provide for the appointment of officers of the Crown to supervise such curing, storage, wholesale sale and manufacture within any tobacco growing or manufacturing area ;

(v) provide for the appointment, licensing, management and supervision of bonded warehouses and the procedure to be followed in entering tobacco into and clearing tobacco from such warehouses ;

(vi) impose on growers, curers, wholesale dealers, brokers, commission agents, or manufacturers, the duty of furnishing information, keeping records and making returns, and prescribe the nature of such information and the form of such records and returns, the particulars to be contained therein, and the manner in which they shall be verified ;

(vii) provide for the issuing of licences and transport permits and the fees, if any, to be charged therefor ;

(viii) provide for the detention of tobacco for the purpose of exacting the duty, the confiscation, otherwise than under section 11, of tobacco in respect of which breaches of the Act or rules have been committed, and the disposal of tobacco so detained or confiscated ;

(ix) authorise and regulate the inspection of factories and the inspection or search of any place or conveyance used for the curing, storage, sale or transport of tobacco ;

(x) authorise and regulate the composition of offences against, or liabilities incurred under, this Act or the rules made thereunder.

(xi) provide for the grant of a rebate of the duty paid on tobacco which is exported by sea to any country outside India or shipped for consumption on a voyage to any port outside India ;

(xii) exempt any tobacco from the whole or any part of the duty imposed by this Act ;

(xiii) authorise the Central Board of Revenue or Collectors appointed for the purposes of this Act to provide, by written instructions, for supplemental matters arising out of any rule made by the Central Government under this section.

(3) In making rules under this section the Central Government may provide that any person committing a breach of any rule shall, where no other penalty is provided by this Act, be liable to a penalty not exceeding two thousand rupees and that the article in respect of which any such breach is committed shall be confiscated.

THE SCHEDULE.

(See section 3.)

Description of tobacco.	Rate of duty.
PART I.	
<i>Unmanufactured.</i>	
I.—VIRGINIA TOBACCO—	per lb. Rs. A.
A.—Flue-cured—	
(1) if intended for manufacture into—	
(a) cigarettes—	
(i) containing more than 20 per cent. weight of imported tobacco	1 12
(ii) containing 20 per cent. or less than 20 per cent. weight of imported tobacco	1 4
(iii) containing no imported tobacco	0 8
(b) biris	0 6
(c) cheroots	0 2
(2) if intended for any other purpose	1 12
B.—Air-cured—	0 6
II.—COUNTRY TOBACCO—	
(1) if intended for manufacture into—	
(a) cigarettes	0 6
(b) biris	0 6
(c) cigars or cheroots	0 2
(d) hookah tobacco	0 1
(e) snuff	0 6
(2) if intended for sale as chewing tobacco, whether manufactured or merely cured	0 1
(3) if intended for any other purpose	0 6
III.—STALKS, STEMS AND OTHER REFUSE OF TOBACCO—	
(1) if intended for use in the preparation of any form of manufactured tobacco	0 1
(2) if intended to be used for agricultural purposes	N ^W

Description of tobacco.

Rate of duty.

PART II.

	Per hundred. Rs. A.
Cigars and cheroots of which the value—	
(i) exceeds Rs. 30 a hundred	6 0
(ii) exceeds Rs. 25 a hundred but does not exceed Rs. 30 a hundred	5 0
(iii) exceeds Rs. 20 a hundred but does not exceed Rs. 25 a hundred	4 0
(iv) exceeds Rs. 15 a hundred but does not exceed Rs. 20 a hundred	3 0
(v) exceeds Rs. 10 a hundred but does not exceed Rs. 15 a hundred	2 0
(vi) exceeds Rs. 5 a hundred but does not exceed Rs. 10 a hundred	1 0
(vii) exceeds Rs. 2-8-0 a hundred but does not exceed Rs. 5 a hundred	0 8
(viii) exceeds Rs. 1-4-0 a hundred but does not exceed Rs. 2-8-0 a hundred	0 4
(ix) exceeds Rs. 10 but does not exceed Rs. 1-4-0 a hundred	0 2

THE VEGETABLE PRODUCT (EXCISE DUTY) ACT, 1943.Act No. XI of 1943.¹

[31st March, 1943.]

An Act to provide for the imposition and collection of an excise duty on vegetable product.

WHEREAS it is expedient to provide for the imposition and collection of an excise duty on vegetable product ;

It is hereby enacted as follows :—

1. *Short title and extent.*—(1) This Act may be called the Vegetable Product (Excise Duty) Act, 1943.

(2) It extends to the whole of British India.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “ factory ” means any premises wherein vegetable product is manufactured ;

(b) “ owner ” includes any person expressly or impliedly authorised by an owner of a factory to be his agent in respect of the factory ;

(c) vegetable product ” means any vegetable oil or fat which, whether by itself or in admixture with any other substance, has by hydrogenation or by any other process been hardened for human consumption.

3. *Imposition of and amount of duty.*—A duty of excise at the rate of five rupees per hundredweight shall be levied on all vegetable product manufactured in any factory in British India and issued out of such factory on or after the 1st day of April, 1943, and shall be payable by the owner of the factory.

4. *Recovery of duty with penalty.*—(1) If any duty payable under section 3 is not paid within the time fixed by a notice issued in accordance with any rules made in this behalf under this Act, it shall be deemed to be an arrear, and the authority to which such duty is payable may, in lieu thereof, recover any sum, not exceeding double the amount of the duty unpaid, which such authority may in its discretion think it reasonable to require.

(2) An arrear of duty, or any sum recoverable in lieu thereof under this section, shall be recoverable as an arrear of land-revenue and shall be recoverable in addition to, and not in substitution for, any other penalty incurred under this Act.

(3) Without prejudice to the provisions of sub-section (2), when under the provisions of sub-section (1) any duty is deemed to be an arrear, the authority by which the notice referred to in sub-section (1) was issued may direct that no issue of vegetable product shall be made and no plant, machinery, or material shall be removed out of the factory whose owner has failed to pay the duty until the duty or the sum recoverable in lieu thereof is paid or recovered ; and such direction shall have effect notwithstanding any change in the ownership of the factory.

(4) Any vegetable product issued, and any plant, machinery, or material removed in contravention of a direction under sub-section (3) shall be liable to confiscation, and any person concerned in such issue or removal shall be punishable with fine which may extend to two thousand rupees.

¹For Statement of Objects and Reasons, see Gazette of India, 1943, Pt. V, p. 88.

The Act has been applied to the Darjeeling Dist. and to the partially excluded areas of the Mymensingh Dist., with certain modifications, with effect from 15th July, 1943 ; See Ben. Govt. Notfn. No. 915 A.R., dated the 7th July 1943.

5. *Issue from factory.*—(1) No vegetable product shall be issued out of any factory except in accordance with the provisions of rules made under section 8 regulating such issue, or until such rules are made, in accordance with the general or special orders of the Central Government.

(2) If any vegetable product is issued out of any factory contrary to the provisions of sub-section (1), any person concerned in such issue shall be punishable with fine which may extend to one thousand rupees or to a sum equal to double the amount of the duty on the vegetable product so issued, whichever is greater.

6. *Application of the provisions of Act VIII of 1878 to the duty on vegetable product.*—The Central Government may, by notification in the official Gazette, declare that any of the provisions of the Sea Customs Act, 1878 (VIII of 1878), relating to the levy of and exemption from customs duties, drawback of duty, warehousing, offences and penalties, confiscation and procedure relating to offences and appeals shall, with such modifications and alterations as it may consider necessary or desirable to adapt them to the circumstances, be applicable in regard to like matters in respect of the duty imposed by section 3.

7. *Power of Central Government to impose a duty of customs or to prohibit import.*—The Central Government may, by notification in the official Gazette, impose on vegetable product brought into British India from the territory of any Indian State, not being territory which has been declared under section 5 of the Indian Tariff Act, 1934 (XXXII of 1934), to be foreign territory for the purposes of that section, a duty of customs equivalent to the excise duty imposed by this Act on vegetable product manufactured in British India, or prohibit absolutely, or with such exceptions as it thinks fit, the bringing of vegetable product into British India from the territory of any specified Indian State.

8. *Power to make rules.*—(1) The Central Government may, by notification in the official Gazette, make rules—

(a) imposing on owners of factories the duty of furnishing returns and keeping records and books, and prescribing the form of such returns, records and books and the particulars to be contained therein, and the manner in which the same are to be verified ;

(b) regulating the issue of vegetable product out of factories ;

(c) providing for the assessment and collection of the duty, the issue of notices requiring payment, the authority to whom the duty shall be payable and the recovery of arrears ;

(d) specifying the manner in which directions under the provisions of sub-section (3) of section 4 shall be made and communicated, and determining when such directions shall be deemed to become effective ;

(e) authorising and providing for the inspection of factories ; and

(f) generally for carrying into effect the provisions of this Act.

(2) Such rules may provide that any breach thereof shall be punishable with fine which may extend to five hundred rupees :

Provided that the breach of any rule made under clause (b) of sub-section (1) shall be punishable with the punishment provided for an offence against section 5,

THE DELHI MUSLIM WAKFS ACT, 1943.

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Act No. XIII of 1943.¹

[1st April, 1943.]

an Act to provide for the better administration of Muslim Wakfs in the Province of Delhi.

WHEREAS it is expedient to provide for the better administration of Muslim Wakfs in the Province of Delhi ;

It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. *Short title, extent and commencement.*—(1) This Act may be called the Delhi Muslim Wakfs Act, 1943.

(2) It extends to the whole of the Province of Delhi.

(3) Section 71 shall come into force at once. The rest of this Act shall come into force on such date, not being later than six months from the date on which it is first published in the official Gazette after having received the assent of the Governor General, as the Provincial Government may, by notification, appoint.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) ' committee ' means a committee appointed by the Majlis under section 20 ;

(b) ' District Judge ' includes a Subordinate Judge of the first class empowered by the District Judge to discharge any function assigned to the District Judge under this Act ;

(c) ' Majlis ' means the Sunni Majlis-e-Awakaf, Delhi, or the Shia Majlis-e-Awakaf, Delhi, established under this Act ;

(d) ' member ' means a member of the Majlis ;

(e) ' mutawalli ' means any person, by whatever designation known, appointed to administer any wakf either verbally or by or under any deed or instrument or in accordance with the usage of such wakf or the District Judge or any other competent authority, and includes any person appointed by a mutawalli to perform the duties of a mutawalli and any committee or any person for the time being managing or administering any wakf property as such ;

(f) ' Nazir ' means the person appointed to be the Nazir-e-Awakaf under this Act ;

(g) ' person interested in a wakf ' means any person who is entitled to receive any pecuniary or other benefit from the wakf and includes—

(i) any person who has a right to pray or to perform any religious rite in a mosque, idgah, imambara, dargah, khankah, maqbara, grave-yard, or any other religious institution connected with the wakf or to participate in any religious or charitable ministration under the wakf ;

(ii) the wakif and any descendant of the wakif ; and

(iii) the mutawalli ;

(h) ' prescribed ' means prescribed by rules made by the Provincial Government under this Act ;

(i) ' qualified accountant ' means any person or class of persons declared by the Provincial Government, by notification in the official Gazette, to be qualified accountants for the purposes of this Act ;

¹ For Statement of Objects and Reasons, see Gazette of India, 1941, Pt. V, p. 38. and for Report of Joint Committee, see *ibid*, 1943, Pt. V, p. 9.

(j) 'Sadr' means the person appointed to be the Sadr of the Majlis under this Act ;

(k) 'wakf' means the permanent dedication of any property, movable or immovable, for any purpose recognised by Muslim law as religious, pious or charitable and includes a wakf by user ; and

(l) 'wakif' means a person who makes such a dedication as is referred to in clause (k).

3. *Application of Act.*—This Act shall apply to all wakfs except the wakfs referred to in and made lawful by the Mussalman Wakf Validating Act, 1913 (VI of 1913).

4. *Act XX of 1863, Act XIV of 1920, Act XLII of 1923 and section 92 of Act V of 1908 not to apply to wakfs.*—The Religious Endowments Act, 1863 (XX of 1863), the Charitable and Religious Trusts Act, 1920 (XIV of 1920), the Mussalman Wakf Act, 1923 (XLII of 1923), and section 92 of the Code of Civil Procedure, 1908 (V of 1908), shall not apply to wakfs to which this Act applies.

CHAPTER II.

CONSTITUTION OF THE MAJLIS.

5. *Constitution and incorporation of the Majlis.*—(1) As soon as possible after this Act comes into force there shall be established for the Province of Delhi, a Majlis, to be called the Sunni Majlis-e-Awakaf, Delhi, and a Majlis to be called the Shia Majlis-e-Awakaf, Delhi, to discharge respectively in regard to Sunni wakfs and Shia wakfs in the Province of Delhi the functions assigned to the Majlis by this Act.

(2) The Majlis shall be a body corporate by the name of the Sunni Majlis-e-Awakaf, Delhi, or Shia Majlis-e-Awakaf, Delhi, as the case may be, and shall have perpetual succession and a common seal, with power to acquire and hold property, both movable and immovable, and to transfer any such property subject to the prescribed conditions and restrictions, and shall by the said name sue and be sued.

6. *Strength of the Majlis.*—The Sunni Majlis-e-Awakaf, Delhi, shall consist of fifteen members and the Shia Majlis-e-Awakaf, Delhi, shall consist of five members.

7. *Composition of Majlis.*—(1) Of the members of the Sunni Majlis-e-Awakaf, Delhi,—

(a) two shall be persons nominated by the Provincial Government ;

(b) two shall be persons elected by a joint electorate consisting of the Muslim members of the Delhi Municipal Committee, the New Delhi Municipal Committee, the Notified Area Committees and the Delhi District Board ;

(c) two shall be persons elected by the Muslim members of the Anglo-Arabic College and Schools Society and the Jamia Millia Association jointly ;

(d) one shall be a person elected by the mutawallis of wakfs registered under this Act ;

(e) five shall be persons elected by the Muslim members of the two Chambers of the Central Legislature jointly ;

(f) three shall be persons co-opted by the members referred to in clauses (a) to (e).

(2) Of the members of the Shia Majlis-e-Awakaf, Delhi,—

(a) one shall be a person nominated by the Provincial Government ;

(b) two shall be persons elected by the members of the Anjuman-e-Shiatus-Safa, Delhi ;

(c) one shall be a person elected by the members of the Anjuman-e-Isna-Ashariya, New Delhi ;

(d) one shall be a person elected by the members of the Anjuman Husaini, Delhi.

(3) The members referred to in clauses (a), (b), (c), (d) and (f) of sub-section (1) shall be persons who are and have been for at least three years resident in the Province of Delhi at the time of nomination, election or co-option.

(4) The member referred to in clause (d) of sub-section (1) may, on the first constitution of the Majlis, be nominated by the Provincial Government, but a person so nominated shall hold office only until he can be replaced by a member elected as provided in that clause, and the member so elected shall hold office only for so long as the member replaced would have held office had he not been replaced.

(5) Of the members referred to in clause (f) of sub-section (1) one shall be an engineer, one shall be a lawyer of not less than ten years' standing and one shall be an Alim.

8. *Appointment of Sadr and term of office of members.*—(1) The Majlis shall elect as Sadr of the Majlis one of the persons appointed to be members thereof.

(2) The term of office of a member of the Majlis shall, save as otherwise provided in this Act, be five years from the date of the publication of his name in the official Gazette under section 12, and shall include any further period which may elapse between the expiration of the said five years and the date of the first meeting of the next succeeding Majlis at which a quorum is present.

9. *Disqualifications of members.*—A person shall not be eligible to be or to remain a member if such person—

(a) in the case of the Sunni Majlis-e-Awakaf, Delhi, is not a Sunni Muslim, and in the case of the Shia Majlis-e-Awakaf, Delhi, is not a Shia Muslim ;

(b) is less than twenty-five years of age ;

(c) is of unsound mind and stands so declared by a competent Court ;

(d) has applied for being adjudged an insolvent or is an undischarged insolvent ;

(e) has been convicted of any offence involving moral turpitude ;

(f) has, on any previous occasion, been removed from office under any provision of this Act, or by order of a competent Court from any position of trust for mismanagement or corruption ; or

(g) except in the case of a person to be elected by the mutawallis of wakfs registered under this Act, is a mutawalli of, or holds any office of profit under, any wakf to which this Act applies.

10. *Filling of casual vacancies.*—If any member is unable by reason of his death, resignation, removal or otherwise to complete his full term of office, the vacancy so caused shall be filled by the nomination, election, or co-option, as the case may be, of another person and the person so appointed shall fill such vacancy, for the unexpired portion of the term for which the member in whose place such person is nominated, elected or co-opted would otherwise have continued in office.

11. *Procedure on failure of electorate to appoint member.*—If any of the bodies referred to in clauses (b), (c), (d), (e) or (f) of sub-section (1) or clauses (b), (c) or (d) of sub-section (2) of section 7 fails, within such time as the Provincial Government considers reasonable, to make the appointments referred to in those clauses, or, on the occurrence of any casual vacancy, to fill

18. *Decision to be by majority of votes.*—(1) Every matter coming before the Majlis shall be decided by a majority of votes of the members present and voting in the meeting.

(2) In the case of an equality of votes, the Sadr shall have a second or casting vote.

19. *Minutes of proceedings.*—(1) Minutes of proceedings of all meetings of the Majlis shall be entered in a book to be kept for the purpose and shall be signed by the Sadr.

(2) A copy of the minutes of the proceedings of every meeting shall be forthwith forwarded by the Sadr to the Provincial Government or to such authority as the Provincial Government may direct.

20. *Appointment of committees and functions of such committees.*—(1) The Majlis may appoint committees to assist it in the exercise of the powers or the performance of the duties conferred or imposed upon it by or under this Act, and may determine the functions and procedure of such committees.

(2) Any person who is not a member of the Majlis may be appointed to be a member of any such committee :

Provided that the number of such persons on any such committees shall not exceed one-third of the total number of members of the committee.

CHAPTER IV.

NAZIR-E-AWKAF AND OTHER OFFICERS AND SERVANTS OF THE MAJLIS.

21. *Appointment of Nazir.*—The Majlis may appoint a person to be Nazir-e-Awakaf :

Provided that the first Nazir, who shall hold office for four years only, but shall be eligible for re-appointment; shall be appointed by the Provincial Government.

22. *Qualifications, salary and allowances of Nazir.*—(1) No person shall be eligible for appointment as Nazir unless he is in the case of the Sunni Majlis-e-Awakaf a Sunni Muslim, and in the case of the Shia Majlis-e-Awakaf a Shia Muslim.

(2) The salary, allowances and other conditions of service of the Nazir of the Sunni Majlis-e-Awakaf shall be such as may be fixed by the Majlis :

Provided that the salary, allowances and other conditions of service of the first Nazir shall be such as may be fixed by the Provincial Government.

(3) The Nazir of the Shia Majlis-e-Awakaf shall be an unpaid officer.

23. *Powers and duties of Nazir and other officers and servants.*—The Nazir and other officers and servants of the Majlis shall exercise such powers and perform such duties as may, from time to time, be conferred or imposed on them by the Majlis.

24. *Appointment of officers and servants.*—(1) The Majlis may, from time to time, determine the number, designations, grades and scales of salary and other conditions of service of its officers and servants.

(2) The power of appointing and promoting such officers and servants and of reducing them in rank or suspending or dismissing them and of dispensing with their services shall vest in—

(a) the Nazir, when the salary of the officer or servant is thirty rupees or less per mensem ;

(b) the Sadr, when the salary of the officer or servant is fifty or less but more than thirty rupees per mensem ; and

(j) subject to the general supervision of the Provincial Government to control and administer the Wakf Fund ;

(k) to keep true and regular accounts of its own receipts and disbursements and submit the same for audit ;

(l) to furnish to the Provincial Government or to such officer as the Provincial Government may appoint in this behalf any statement, report, return or other document and any information which the Provincial Government or, as the case may be, such officer may require to be furnished ;

(m) to institute, whenever it thinks fit, an enquiry relating to the administration of a wakf ;

(n) to direct the mutawalli of a wakf to institute in a court of law, within such time as may be fixed by the Majlis, any suit or proceeding which he is entitled to institute in accordance with the law for the time being in force in respect of the wakf and, on failure of the mutawalli to do so, to institute such suit or proceeding itself ;

(o) to defend, either on behalf of or in addition to the mutawalli, in any suit or proceeding instituted with respect to a wakf or any matter connected therewith, or, in cases where there is no mutawalli or the succession to the office of mutawalli is disputed, to defend any such suit or proceeding itself ; and

(p) to realise in the prescribed manner and subject to the prescribed conditions out of the income of any wakf the costs incurred by the Majlis in any suit or proceeding instituted by it under clause (n) or in defending any suit or proceeding under clause (o) in respect of such wakf.

(4) Save as provided in sub-section (2), where the supervision of a wakf is vested in any committee or association appointed by the wakif or by a competent Court or authority such committee or association shall continue to function under the general superintendence and control of the Majlis unless superseded by the Majlis under sub-section (5).

(5) The Majlis may supersede any committee or association referred to in sub-section (4) which in the opinion of the Majlis is not discharging its functions satisfactorily, and if it does so any decree or order of a Court or authority by which such committee or association was constituted shall cease to have effect, and the order of the Majlis shall be final and shall not be questioned in any Court.

26. Application of wakf funds, etc., where object ceases to exist or becomes impossible of achievement.—(1) When any object of a wakf has ceased to exist or has, in the opinion of the Majlis, become impossible of achievement, the Majlis may, of its own motion, or on the application of any Muslim, after issuing notice in the prescribed manner to the mutawalli of such wakf and to such other person as may appear to the Majlis to be interested therein and after making such enquiry as it thinks fit, determine the object (which shall be similar or as nearly similar as practicable to the object which has ceased to exist or become impossible of achievement) to which the funds, property or income of the wakf, or so much of such fund, property or income as was previously expended on or applied to the object which has ceased to exist or become impossible of achievement, shall be applied.

(2) The applicant or the mutawalli of, or any other person interested in, such wakf may, within sixty days of any order passed under sub-section (1), make an application to the District Judge for varying, modifying, or setting aside such order ; but, subject to the decision of the District Judge on any such application, the order of the Majlis shall be final and binding upon the applicant and every person interested in the wakf.

(j) subject to the general supervision of the Provincial Government to control and administer the Wakf Fund ;

(k) to keep true and regular accounts of its own receipts and disbursements and submit the same for audit ;

(l) to furnish to the Provincial Government or to such officer as the Provincial Government may appoint in this behalf any statement, report, return or other document and any information which the Provincial Government or, as the case may be, such officer may require to be furnished ;

(m) to institute, whenever it thinks fit, an enquiry relating to the administration of a wakf ;

(n) to direct the mutawalli of a wakf to institute in a court of law, within such time as may be fixed by the Majlis, any suit or proceeding which he is entitled to institute in accordance with the law for the time being in force in respect of the wakf and, on failure of the mutawalli to do so, to institute such suit or proceeding itself ;

(o) to defend, either on behalf of or in addition to the mutawalli, in any suit or proceeding instituted with respect to a wakf or any matter connected therewith, or, in cases where there is no mutawalli or the succession to the office of mutawalli is disputed, to defend any such suit or proceeding itself ; and

(p) to realise in the prescribed manner and subject to the prescribed conditions out of the income of any wakf the costs incurred by the Majlis in any suit or proceeding instituted by it under clause (n) or in defending any suit or proceeding under clause (o) in respect of such wakf.

(4) Save as provided in sub-section (2), where the supervision of a wakf is vested in any committee or association appointed by the wakif or by a competent Court or authority such committee or association shall continue to function under the general superintendence and control of the Majlis unless superseded by the Majlis under sub-section (5).

(5) The Majlis may supersede any committee or association referred to in sub-section (4) which in the opinion of the Majlis is not discharging its functions satisfactorily, and if it does so any decree or order of a Court or authority by which such committee or association was constituted shall cease to have effect, and the order of the Majlis shall be final and shall not be questioned in any Court.

26. Application of wakf funds, etc., where object ceases to exist or becomes impossible of achievement.—(1) When any object of a wakf has ceased to exist or has, in the opinion of the Majlis, become impossible of achievement, the Majlis may, of its own motion, or on the application of any Muslim, after issuing notice in the prescribed manner to the mutawalli of such wakf and to such other person as may appear to the Majlis to be interested therein and after making such enquiry as it thinks fit, determine the object (which shall be similar or as nearly similar as practicable to the object which has ceased to exist or become impossible of achievement) to which the funds, property or income of the wakf, or so much of such fund, property or income as was previously expended on or applied to the object which has ceased to exist or become impossible of achievement, shall be applied.

(2) The applicant or the mutawalli of, or any other person interested in, such wakf may, within sixty days of any order passed under sub-section (1), make an application to the District Judge for varying, modifying, or setting aside such order ; but, subject to the decision of the District Judge on any such application, the order of the Majlis shall be final and binding upon the applicant and every person interested in the wakf.

27. Power to contract and mode of execution of contracts.—(1) The Majlis may enter into such contracts as it may consider necessary or expedient for carrying out any of the purposes of this Act.

(2) Every contract made on behalf of the Majlis, the value or amount of which exceeds one hundred rupees, shall be in writing and shall be signed by the Nazir, and shall be countersigned by the Sadr and be sealed with the common seal of the Majlis. Contracts the value or amount of which is one hundred rupees or less shall be in writing and shall be signed by the Nazir.

(3) If any contract is executed on behalf of the Majlis otherwise than in conformity with the provisions of sub-section (2) it shall be voidable at the option of the Majlis.

28. Power of Majlis to settle schemes for proper administration of wakfs.—

(1) The Majlis may, of its own motion, or on an application made to it in this behalf by two or more persons interested in any wakf,—

(a) settle a scheme for such wakf, after making such enquiry as it thinks fit and giving notice to the mutawalli of such wakf and to such other person as may appear to the Majlis to be interested therein ;

(b) in like manner and subject to the like conditions, modify any scheme settled under this section or under any other law or substitute another scheme in its stead :

Provided that any scheme so settled, modified or substituted shall be in accordance with the law governing the wakf and shall not be contrary to the wishes of the wakf, so far as such wishes can be ascertained.

(2) A scheme settled, modified or substituted instead of another scheme under this section shall, unless otherwise ordered by the District Judge on an application, if any, made under sub-section (3), come into force on a day to be appointed by the Majlis in this behalf and shall be published in the official Gazette.

(3) The mutawalli of, or any other person interested in, such wakf may, within six months from the date of the publication in the official Gazette of the scheme so settled, modified or substituted instead of another scheme, as the case may be, make an application to the District Judge for varying, modifying, or setting aside the scheme ; but, subject to the result of such application, the order of the Majlis under sub-sections (1) and (2) shall be final and binding upon the mutawalli of the wakf and upon every other person interested in such wakf.

(4) An order passed by the District Judge on any application made under sub-section (3) shall be final.

29. Power of Majlis to make certain payments on behalf of wakfs.—(1) Where a mutawalli refuses to pay or fails to pay any land-revenue, cess, rent, rates or taxes due to the Crown or to a local authority from a wakf, the Majlis may itself defray the charges from the Wakf Fund and may recover from the wakf property the amount so paid, and, if the refusal or failure of the mutawalli was in the opinion of the Majlis wilful, may recover from the mutawalli damages at the rate of twelve and one half per cent. of the amount so paid :

Provided that a mutawalli aggrieved by a decision of the Majlis to recover damages under this sub-section may apply to the District Judge to have the order annulled, and the order of the District Judge shall be final.

(2) The Majlis may pay out of the Wakf Fund land-revenue, cess, rent, rates or taxes due to the Crown or to a local authority from a wakf if the funds of the wakf are insufficient to defray such charges.

(3) The procedure provided in sub-section (4) of section 56 shall apply to the recovery by the Majlis of any sums which the Majlis is empowered by sub-section (1) to recover from a wakf or a mutawalli.

30. Power of Majlis to borrow money.—The Majlis may, with the previous sanction of the Provincial Government, borrow money for the purpose of giving effect to the provisions of this Act of such amount and on such conditions as the Provincial Government may determine.

31. Majlis to keep certain registers.—(1) The Sunni Majlis-e-Awakf for Sunni wakfs and the Shia Majlis-e-Awakf for Shia wakfs shall prepare and maintain in such form as it thinks fit a register of all wakfs in the Province.

(2) Entries in the register may be made by the Majlis of its own motion or on application made by any Muslim after such enquiry as the Majlis thinks fit.

(3) Any Muslim may, on payment of such fee as may be fixed by the Majlis, inspect the register and obtain a copy of any extract thereof.

32. Exercise by Sadr of powers of Majlis.—If any necessity arises for immediate action by the Majlis, and a meeting of the Majlis cannot be arranged in time to take such action, the Sadr may exercise any power that could be exercised by the Majlis, but the Sadr shall report in writing any action taken by him under this section to the Majlis at its next meeting together with his reasons for taking such action.

CHAPTER VI.

JUDICIAL PROCEEDINGS.

33. Powers of Majlis to make applications to the District Judge in certain cases.—In any of the following cases, namely,—

(a) where any question arises as to whether any property is or is not property belonging to a wakf,

(b) where a charge exists on any property for the performance of any religious, pious or charitable act recognised as such by Muslim Law and there is failure to perform such act,

(c) where any question arises as to whether a wakf is created primarily for Shias or for Sunnis, the Majlis may apply to the District Judge for an order—

(i) determining, in the case referred to in clause (a), whether the property does or does not belong to a wakf, and, if it belongs to a wakf, the wakf to which it belongs ;

(ii) directing, in the case referred to in clause (b), the person in possession of the property to perform such act or in default to pay to the Majlis the amount necessary for the performance by the Majlis, or any person appointed by the Majlis in this behalf, of the act for the performance of which the charge was created ;

(iii) determining, in the case referred to in clause (c), whether the wakf is created primarily for Shias or for Sunnis.

34. Procedure at hearing of applications for determining whether any property is wakf property.—(1) When an application is made under clause (a) of section 33, the District Judge shall cause a special notice of the application to be served on the person in possession of the property and a general notice thereof to be published in the prescribed manner calling upon such person and all other persons having any claim to the property to file their respective claims before him within six months from the publication of the said general notice.

(2) If, within the period specified in sub-section (1),—

(a) no claim is filed by any of the persons referred to in the said sub-section, the District Judge shall make an order declaring that such property is wakf property and determining the wakf to which it belongs ;

(b) any claim is filed by any such person, the District Judge shall proceed to determine whether the property is wakf property, and, if it is, the wakf to which it belongs.

(3) If the District Judge makes an order under clause (a) of sub-section (2) or determines under clause (b) of the said sub-section that the property belongs to any wakf, he shall make a further order directing the person in possession of the property to deliver possession thereof within a period to be specified in the order to the mutawalli of the wakf concerned.

(4) Notwithstanding anything to the contrary contained in this Act or in the Indian Limitation Act, 1908 (IX of 1908), or in any other law, every proceeding under this section shall, for the purposes of the said Indian Limitation Act, be deemed to be a suit instituted on the date on which the application referred to in sub-section (1) is made to the District Judge.

(5) In disposing of any application under this section to which clause (b) of sub-section (2) applies, the District Judge shall follow as nearly as possible the procedure applicable to the trial of suits.

35. Application to compel mutawalli to discharge obligations or for appointment of receiver.—Where the mutawalli of a wakf ~~refuses~~ fails to discharge any of the duties imposed upon him under the wakf, the Majlis or, with the previous sanction of the Majlis or the Provincial Government, any person interested in the wakf may make an application to the District Judge for an order—

(a) directing the mutawalli to discharge such obligation within a time to be specified in the order ; or

(b) appointing the Nazir as receiver of the funds and property of the wakf if the mutawalli fails to carry out such direction within the time so specified.

36. Power of District Judge to remove mutawalli and make other orders.—

(1) Where it is alleged that the mutawalli of a wakf—

(i) acts in a manner prejudicial to the interest of the wakf, or

(ii) persistently defaults in the payment of any amount payable under any law for the time being in force in respect of the property or income of the wakf or any other statutory charge on such property or income, or

(iii) persistently defaults in the payment of any sum payable to any beneficiary under the wakf or in discharging any other duty imposed upon him under the wakf, or

(iv) is guilty of breach of trust,
the Majlis or, with the previous sanction of the Majlis or of the Provincial Government, any person interested in a wakf may institute a suit before the District Judge to obtain a decree—

(a) removing the mutawalli ;

(b) appointing a new mutawalli ;

(c) vesting any property in a mutawalli ;

(d) directing accounts and enquiries ; or

(e) granting such further or other relief as the nature of the case may require.

(2) The Majlis or, with the previous sanction of the Majlis or of the Provincial Government, any person interested in the wakf may make an application to the District Judge for an order removing the mutawalli of any wakf, if such mutawalli—

(a) is convicted of any such offence or is subjected by a criminal Court to any such order as implies moral turpitude which in the opinion of the District Judge unfits him to hold office ;

(b) refuses to act or becomes incapable of acting ;

(c) applies for being adjudged or is adjudged an insolvent ;

(d) fails without reasonable cause, the burden of proving which shall be upon him, to comply with any direction given under clause (h) or clause (n) of sub-section (3) of section 25, or with the provisions of sub-section (1) of section 43 or of sub-section (1) of section 44 ; or

(e) persistently and wilfully fails without reasonable cause to comply with the provisions of section 45 or to furnish any statement, annual account, estimate, explanation or other document or information relating to the wakf of which he is the mutawalli which he is required or called upon to furnish under any provision of this Act.

37. Notice of certain suits to be given to the Majlis and addition of Majlis as party thereto.—(1) In every suit or proceeding in respect of any wakf or property belonging to a wakf the Court shall issue a notice of the institution thereof to the Majlis.

(2) The Majlis may apply to the Court in which the suit or proceeding referred to in sub-section (1) is pending, to be added, and shall thereupon be added, as a party thereto, and shall be entitled to conduct such suit or proceeding, if instituted by the mutawalli, or to defend such suit or proceeding, if instituted by any other person against the mutawalli.

(3) If the notice required by sub-section (1) to be issued to the Majlis in respect of any suit or proceeding is not issued, the decree or order passed in such suit or proceeding shall be voidable at the option of the Majlis.

38. Proceedings in case of a wakf property under the Land Acquisition Act, 1894.—(1) In the course of a proceeding under the Land Acquisition Act, 1894 (I of 1894), the Collector, before making an award in respect of a wakf property shall issue a notice to the Majlis and shall stay further proceedings to enable it to plead as a party to the proceeding at any time within three months from the date of the receipt of the notice.

(2) Where the Majlis has reason to believe that any property under acquisition is a wakf property it may at any time before the award is made appear and plead as party to the proceedings.

(3) When the Majlis has appeared under the provisions of sub-section (2) no order shall be passed under section 31, or section 32 of the Land Acquisition Act, 1894 (I of 1894), without giving opportunity to the Majlis to be heard.

(4) Any order passed under section 31 or section 32 of the Land Acquisition Act, 1894 (I of 1894), without giving opportunity to the Majlis to be heard, shall be voidable at the option of the Majlis.

39. Notice of sales to be given to the Majlis.—(1) Before any wakf property is notified for sale in execution of a decree, or for the recovery of any revenue, cess, rate or tax due to the Crown or to a local authority, notice shall be given to the Majlis by the Court or Collector or other person under whose order the sale is notified.

(2) If the notice required by sub-section (1) to be issued to the Majlis in respect of any sale is not issued the sale shall be voidable at the option of the Majlis.

40. Power of Majlis to institute suits on failure of mutawalli to do so.—Where there is no mutawalli of a wakf or the mutawalli of a wakf refuses or neglects to act in the matter within a reasonable time, the Majlis may in its own name institute a suit or proceeding in Court against a stranger to the wakf or any other person for the recovery of any wakf property wrongfully possessed, alienated or leased, or to have any wakf property discharged of an encumbrance or obligation wrongfully created or to recover any money belonging to a wakf.

41. Approval of Majlis required to compromise, etc.—No arrangement, compromise or adjustment in any suit or proceeding in respect of any wakf or property belonging to a wakf shall be recorded under the provisions of Rule 3 of

Order XXIII of the Code of Civil Procedure, 1908 (V of 1908), without the approval of the Majlis.

CHAPTER VII.

MUTAWALLIS AND THEIR DUTIES.

42. Mutawalli to carry out orders of the Majlis.—Every mutawalli shall carry out all directions which may, from time to time, be issued to him by the Majlis under any of the provisions of this Act.

43. Registration of wakfs.—(1) (a) Within six months from the date of the publication of the notification establishing the first Majlis the mutawalli of every wakf existing on the said date shall furnish to the Majlis a statement in the prescribed form containing the prescribed particulars in respect of the wakf of which he is the mutawalli.

(b) In the case of a wakf created after the date of the publication of the said notification, such statement shall be furnished to the Majlis by the mutawalli of such wakf within six months from the date on which the wakf is created.

(2) Every such statement shall be verified by the mutawalli in the manner laid down in the Code of Civil Procedure, 1908 (V of 1908), for the verification of pleadings, and shall be accompanied by a true copy of the deed or instrument creating the wakf or, where there is no such deed or instrument, by a statement in the prescribed form setting forth the objects of the wakf and verified in like manner.

44. Budget of wakfs and submission of such budgets to the Majlis.—(1) The mutawalli of every wakf shall, before the fifteenth day of January in each year, prepare a budget of the estimated income and expenditure of such wakf for the next succeeding financial year and shall forthwith send a copy thereof to the Majlis.

(2) The Majlis may, within six weeks from the date on which it receives such copy, alter or modify the budget in such manner and to such extent as it thinks fit :

Provided that nothing in this sub-section shall be deemed to authorise the Majlis to alter or modify the budget unless it is inconsistent with the wishes of the wakf, so far as such wishes can be ascertained.

(3) If the Majlis alters or modifies any budget under sub-section (2), it shall forthwith send a copy of the budget as so altered or modified to the mutawalli of the wakf concerned, and the budget as so altered or modified shall be deemed to be the budget of the wakf.

(4) If the Majlis neglects or omits for two weeks after the expiration of the period mentioned in sub-section (2) to send to the mutawalli of the wakf concerned a copy of the budget altered or modified as aforesaid, the Majlis shall be deemed to have approved the budget without any alteration or modification.

(5) If the mutawalli fails to prepare and send a copy of the budget as required by sub-section (1) the Majlis shall prepare a budget for the wakf concerned and such budget shall be deemed to be the budget of that wakf for the year in question.

45. Duties of mutawallis to give assistance in enquiries, etc.—The mutawalli of every wakf shall offer every reasonable facility for the inspection of the documents and the property of such wakf and shall render every assistance in enquiries, when called upon to do so by the Majlis, any committee, the Sadr, the Nazir, or any other person or officer appointed by the Majlis to make such enquiries.

46. *Mutawalli or other person to deliver possession of wakf property, etc., in certain cases as ordered by the Majlis.*—(1) When the District Judge makes any order appointing a new mutawalli under clause (b) of sub-section (1) of section 36 or vesting any property in a mutawalli under clause (c) of the said sub-section the Majlis shall order the mutawalli removed from office or any person who may be in possession of any property or document belonging to the wakf concerned or in possession of any property to which the order under the said clause (c) relates to deliver, within such time as may be fixed by the Majlis, such property or document to the new mutawalli or to the mutawalli in whose favour the order under the said clause (c) has been made, and thereupon the mutawalli who has been so removed from office or the other person so ordered shall be bound to deliver such property or document as directed by the Majlis.

(2) If any person ordered under sub-section (1) to deliver any property or document of a wakf fails to do so within the time fixed by the Majlis, the Majlis may make an application to the District Judge for the recovery of such property or document.

CHAPTER VIII.

AUDIT AND RECOVERY OF IRREGULAR EXPENSES.

47. *Appointment of auditor and audit of accounts of the Majlis.*—(1) The accounts of the Majlis shall be audited and examined every year by such auditor, as may from time to time be appointed by the Provincial Government.

(2) For the purposes of any such audit and examination of accounts the auditor may, by a demand in writing, require from the Majlis or any member or servant of the Majlis the production before him of any document and papers which he deems necessary, and may require any person holding or accountable for any such books, deeds, vouchers, documents or papers to appear before him at any such audit and examination, and to answer all questions which may be put to him with respect to the same or to prepare and submit any further statement which such auditor may consider necessary.

48. *Submission of auditor's report to the Majlis and the Provincial Government.*—(1) Within thirty days after the audit and examination have been completed the auditor shall submit a report to the Majlis upon each account audited and examined, and shall forward copies of his reports to the Provincial Government and to the Majlis.

(2) The report of the auditor shall among other matters specify all items of expenditure which in his opinion are illegal, irregular or improper, all cases of failure to recover money or property due to the Majlis, all instances of loss or wasteful expenditure of money or property due to negligence or misconduct and all instances in which any money or property has been devoted to any purpose not authorised by this Act.

(3) The Majlis shall cause the report and abstracts of each account to be published in at least one English and one Urdu newspaper printed and published in the Province of Delhi.

49. *Majlis to consider auditor's report.*—The Majlis in general meeting shall consider the reports of the auditor and satisfy itself that no expenditure shown therein has been incurred otherwise than in accordance with the provisions of this Act and shall pass such orders as are in its opinion necessary and proper to rectify any illegal, unauthorised or improper expenditure, and may pass such further orders upon the reports as it deems proper.

50. *Payment of expenses.*—(1) The expenses incurred in the audit and examination of the accounts of the Majlis shall be paid out of the Wakf Fund.

(2) If payment of the expenses referred to in sub-section (1) is not made within three months from the date of the submission of a report as described in

section 48, the Provincial Government may, on application to it being made within six months from such date by the auditor, recover the amount due as if it were an arrear of land-revenue.

51. *Audit of accounts of wakfs.*—(1) The accounts of every wakf shall be audited and examined annually by a qualified accountant appointed as auditor by the Majlis.

(2) The auditor may, by written notice, require the production before him of any document or the attendance before him of any person responsible for the preparation of the accounts, to enable the auditor to obtain such information as he may consider necessary for the proper conduct of audit.

(3) After completing the audit, the auditor shall submit a report to the Majlis :

Provided that the auditor may submit an interim report at any time he thinks fit.

(4) The report of the auditor shall include a statement of—

(a) any payment which appears to him to be contrary to law ;

(b) the amount of any deficiency or loss which appears to have been incurred by the negligence or misconduct of the mutawalli ; and

(c) the amount of any sum which ought to have been but is not brought into account by the mutawalli.

(5) After considering such report, the Majlis may—

(a) order that any payment referred to in clause (a) of sub-section (4) shall be allowed or that no further action shall be taken as regards any amount referred to in clause (b) or (c) of the said sub-section, or

(b) serve a notice on the mutawalli concerned requiring him to show cause within one month from the date of the service of such notice why such payment should not be surcharged or such amount should not be charged against him.

(6) After considering such cause as may be shown by the mutawalli and affording him a reasonable opportunity of being heard, the Majlis may surcharge such payment or charge the amount of any loss or deficiency against him and shall, in every case, certify the amount due from him.

(7) The cost of the audit of the accounts of a wakf shall be paid from the Wakf Fund.

52. *Certified amount recoverable as arrear of land-revenue.*—(1) Every amount certified under sub-section (6) of section 51 as due from any mutawalli shall, if not paid within sixty days next after the date of the certification thereof, be recoverable in the manner provided in sub-section (4) of section 56.

(2) The Majlis shall pay all certified amounts received or recovered by it to the mutawalli of the wakf concerned.

53. *Appeal against order of surcharge or charge.*—(1) A mutawalli aggrieved by any order of surcharge or charge made against him under sub-section (6) of section 51 may, within thirty days of such order, appeal to the prescribed authority which may, after making such enquiry as it considers proper, pass such order as it thinks fit.

(2) Notwithstanding anything to the contrary contained in sub-section (1) of section 52, pending the disposal of such appeal, all proceedings on the certificate shall be stayed.

54. *Special provisions as to audit in the case of the Shia Majlis and Shia wakfs.*—The provisions of this Chapter shall not apply to the Shia Majlis-e-Awakf or to Shia wakfs, but the Provincial Government may at any time order the accounts of the Shia Majlis-e-Awakf to be audited and the expenses incurred

in such audit shall be payable in such manner as the Provincial Government may direct, and the Shia Majlis-e-Awakaf shall have the accounts of every Shia wakf examined annually by two persons appointed for the purpose by the Majlis.

CHAPTER IX.

THE WAKF FUND.

55. Creation of Wakf Fund.—(1) There shall be formed a fund to be called the Wakf Fund ; and there shall be placed to the credit thereof—

- (a) all sums received by the Majlis as donations and grants ;
- (b) all sums received as fee under section 56 ;
- (c) all receipts in respect of fees for inspection and supplying copies of any documents ;
- (d) all sums received or recovered by the Majlis as costs awarded to the Majlis in any suit or proceeding ; and

(e) all sums received or recovered by the Majlis on any other account except certified sums received or recovered by it under section 52.

(2) The Wakf Fund shall be vested in the Majlis and the balance standing to the credit of the Fund shall be kept in such custody as the Provincial Government may, from time to time, direct.

56. Fee payable by wakfs to the Wakf Fund.—(1) For the purpose of defraying the expenses incurred or to be incurred in the administration of this Act, the mutawalli of every wakf other than a wakf referred to in section 3 of the Mussalman Wakf Validating Act, 1913 (VI of 1913), or a wakf the annual income of which is less than five hundred rupees shall in each financial year pay to the Majlis such fee, not exceeding six and a quarter per centum of its net income in the last preceding financial year, as the Majlis may, from time to time, with the previous sanction of the Provincial Government determine.

Explanation.—In this sub-section the expression “ net income ” means the total income realised by the mutawalli from all sources after deducting any amount payable as revenue, rent, taxes, local or other cesses and collection charges not exceeding three per cent. of the amount collected, but does not include offerings intended explicitly for the mutawalli personally.

(2) (a) The fee referred to in sub-section (1) shall be assessed by the prescribed authority in the prescribed manner.

(b) A mutawalli, aggrieved by an order of assessment made by the prescribed authority under clause (a), may, within one month of the date of the receipt of the said order, appeal to such authority as may be prescribed, and such authority may, by order, set aside or vary such assessment and such order shall be final.

(3) Such fee shall be payable in the prescribed manner in four equal instalments on such dates as may, from time to time, be fixed by the Majlis.

(4) If any instalment of such fee is not paid on or before the date fixed by the Majlis under sub-section (3) for the payment of such instalment, the Majlis may forward to the Collector a statement specifying the amount due, and the Collector on receipt of such statement shall proceed to recover from the person responsible for paying the same the amount specified in the statement as if it were an arrear of land-revenue.

(5) The Majlis may reduce any portion of the fee payable by the mutawalli of any wakf.

57. Objects to which Wakf Fund may be applied.—The Wakf Fund shall be applicable to the following objects, and in the following order :—

(a) to the repayment of debts incurred by the Majlis for the purposes of this Act ;

(b) to the payment of the salaries and allowances of the Nazir and of the establishments employed by the Majlis for the purposes of this Act;

(c) to the expenses incurred in the assessment and recovery of the fee mentioned in section 56;

(d) to the payment of the cost of audit of the Wakf Fund and of the cost of audit of the accounts of any wakf made under section 51;

(e) to the expenses of any suit or proceeding to which the Majlis is a party;

(f) to any object which may be declared by the Majlis at a meeting specially convened for the purpose, by a resolution in favour of which not less than two-thirds of the members present at such meeting shall have voted, to be an object to which the Wakf Fund may be applicable in consonance with the Muhammadan Law.

(g) to payments for the maintenance or repair of wakfs whose income is insufficient for the purpose;

(h) to payments of arrears of land-revenue, cess, rent, rates or taxes due to the Crown or a local authority from a wakf, where the mutawalli refuses or fails to pay; and

(i) to the payment of any other expense incurred by the Majlis in carrying out the provisions of this Act.

CHAPTER X.

MISCELLANEOUS.

58. *Bar to transfer of immovable property of wakf.*—(1) Except as provided in sub-section (2), no transfer made after the commencement of this Act by a mutawalli of any immovable property of a wakf by way of sale, mortgage, gift or exchange, or by way of lease for a term exceeding three years shall be valid unless made with the previous sanction of the Majlis.

(2) Where any such transfer is made under an express power conferred by the wakf deed the previous sanction of the Majlis shall not be necessary, but a notice of the proposed transfer in such form and containing such particulars as may be prescribed shall be sent by the mutawalli to the Majlis one month before the transfer is made.

59. *Power of mutawalli to apply to Majlis for direction.*—The mutawalli of a wakf may apply by petition to the Majlis for the opinion, advice or direction of the Majlis on any question affecting the management or administration of the property of such wakf and the Majlis shall give its opinion, advice or direction, as the case may be, thereon.

60. *Orders of District Judge to have the force of and be appealable as decrees.*—Every order passed by the District Judge under this Act shall have the force of a decree and shall, unless otherwise provided in this Act, be appealable to the High Court.

61. *Sadr, etc., to be public servants.*—The Sadr, the Nazir and every auditor appointed under section 47 or 51 shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code (XLV of 1860).

62. *Power to extend time.*—The Majlis may, if it is satisfied that there is sufficient reason for so doing, from time to time extend the time within which any act or thing is required or ordered to be done under any of the provisions of this Act.

63. *Power to grant copies and certify such copies.*(1) The Majlis may grant copies of its proceedings and records and any other document in its possession on payment of such fees and subject to such condition as may, from time to time, be determined by the Majlis.

(2) Such copies may be certified in the manner provided in section 76 of the Indian Evidence Act, 1872 (I of 1872),

64. *Presumption and savings.*—(1) No act of the Majlis or of a committee shall be deemed to be invalid by reason of the existence of a vacancy in the Majlis or such committee.

(2) Accidental omission to serve notice of a meeting of the Majlis or of a committee on any member of the Majlis or such committee, as the case may be, shall not affect the validity of any such meeting.

(3) No act, order or direction of the Majlis shall be deemed to be invalid by reason of any irregularity in the constitution of the Majlis and no order or decision or direction of the Majlis or of the Sadr shall be reversed or substantially varied, nor shall any proceeding heard by the Majlis or by the Sadr be remanded, by the District Judge before whom, or any Court in which, an application is made, a suit instituted or an appeal preferred to reverse or vary such order, decision or direction, on account of any mis-joinder or non-joinder of parties or causes of action, or any error, defect or irregularity in the proceedings before the Majlis or the Sadr not affecting the merits of the case or the jurisdiction of the Majlis or the Sadr.

65. *Bar of suits.*—Save as otherwise provided in this Act, no suit shall be brought in any Civil Court to set aside or modify any order made under this Act, and no suit shall lie against the Majlis, the Sadr or any other member or the Nazir for anything in good faith done or purporting to be done under this Act.

66. *No action to be brought against the Majlis or the Sadr, etc., until after notice of cause of action.*—No suit shall be brought against the Majlis or the Sadr or any other member or the Nazir or any of the officers or servants of the Majlis or any person acting under their direction or under the direction of any of them for anything done or purporting to be done under this Act, until the expiration of two months next after notice in writing has been delivered or left at the office of the Majlis and also (if the suit is intended to be brought against the Sadr or any other member or the Nazir or any of the officers or the servants of the Majlis or any person acting under their direction or under the direction of any of them) at the place of abode of the person against whom such suit is intended to be brought, stating the cause of action and the name and place of abode of the person who intends to bring the suit.

67. *Court-fee leviable under this Act.*—Notwithstanding anything contained in the Court-fees Act, 1870 (VII of 1870), or any other Act, in its application to the Province of Delhi, the fee payable on any application filed before the District Judge under this Act shall be such as may be prescribed.

68. *Provisions to have effect notwithstanding any other law.*—The provisions of this Act shall have effect notwithstanding anything contained in any other law or anything having the force of law: and anything in any such law or anything having the force of law, which is inconsistent with any of the provisions of this Act, shall, to the extent of such inconsistency, be deemed to be of no effect.

69. *Power of the Provincial Government to make rules.*—(1) The Provincial Government may, after previous publication, make rules not inconsistent with this Act, for carrying out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, the Provincial Government may make rules with respect to all or any of the following matters:—

(a) the conditions and restrictions subject to which the Majlis may transfer any property under sub-section (2) of section 5;

(b) the manner in which members shall be elected under clauses (b), (c), (d) and (e) of sub-section (1) and clauses (b), (c) and (d) of sub-section (2) of section 7 and under section 10;

(c) the manner in which the record referred to in clause (a) of sub-section (3) of section 25 shall be prepared and maintained;

(d) the manner in which and the conditions subject to which the Majlis may realise the costs referred to in clause (p) of sub-section (3) of section 25;

(e) the manner in which notices under sub-section (1) of section 26 shall be issued;

(f) the manner in which general notices under sub-section (1) of section 34 shall be published;

(g) the form of the statements referred to in sub-sections (1) and (2) of section 43 and the particulars to be contained in the statement referred to in the said sub-section (1);

(h) the authority to whom a mutawalli may appeal under sub-section (1) of section 53;

(i) the manner in which fees under section 56 shall be assessed and paid, the authority by whom such assessment shall be made and the authority to whom appeal from orders of assessment shall lie;

(j) the form of and the particulars to be contained in the notice referred to in sub-section (2) of section 58; and

(k) the fee payable on any application or other document under section 67.

70. Power of the Majlis to make bye-laws.—(1) The Majlis may make bye-laws not inconsistent with this Act or the rules made thereunder for any matter necessary for carrying into effect the objects of this Act.

(2) In particular and without prejudice to the generality of the foregoing power the Majlis may make bye-laws with respect to—

(a) the preservation of order and the conduct of proceedings at meetings of the Majlis;

(b) the functions and procedure of committees;

(c) the fee to be levied on applications under this Act before it or any of its committees or before the Sadr or the Nazir or any of the officers or servants of the Majlis, and on applications for copies of proceedings or other records of the Majlis and the form of and manner of making such applications;

(d) the fee to be paid for inspecting the register of wakfs;

(e) the form of the register of wakfs to be prepared and maintained by the Majlis;

(f) the books and accounts to be kept in the office of wakfs;

(g) the accounts, reports and returns to be submitted by trustees of wakfs;

(h) the manner in which the accounts of wakfs shall be audited and published, the time and place of such audit, the forms and contents of the auditor's reports and the scale of remuneration to be paid to auditors;

(i) the custody and investment of the fund of any wakf;

(j) the number, designation, grades, salaries, allowances and other conditions of service, including the powers and duties, of the officers and servants of the Majlis;

(k) the allocation of duties to the Sadr and members of the Majlis;

(l) the security, if any, to be furnished by officers and servants of the Majlis;

(m) the persons by whom receipts may be granted for money received;

- (n) the custody of the common seal;
 - (o) the manner in which the decisions of the Majlis may be ascertained otherwise than at meetings;
 - (p) the form of and particulars to be contained in the budget referred to in section 44; and
 - (q) the publication of the notices, decisions and orders of the Majlis.
- (3) Such bye-laws shall be made after previous publication and shall not take effect until they are approved and confirmed by the Provincial Government.

71. *Provisions to facilitate the bringing into force of this Act.*—(1) Notwithstanding anything contained in section 22 of the General Clauses Act, 1897 (X of 1897), but otherwise without prejudice to the provisions of that section, the Provincial Government may, immediately upon the passing of this Act, make the appointment referred to in the proviso to section 21 of this Act, and such appointment shall take effect immediately.

(2) It shall be the duty of the Nazir when so appointed to carry out or assist in carrying out under the directions and control of the Provincial Government any steps necessary for or preliminary to the bringing into force of the provisions of this Act.

(3) If any difficulty arises in the first constitution of the Majlis or otherwise in bringing this Act into force, the Provincial Government may by order direct any action necessary to overcome such difficulty.

THE WAR INJURIES (COMPENSATION INSURANCE) ACT, 1943.

Act No. XXIII of 1943.¹

[2nd September, 1943.]

An Act to impose on employers a liability to pay compensation to workmen sustaining war injuries and to provide for the insurance of employers against such liability.

WHEREAS it is expedient to impose on employers a liability to pay compensation to workmen sustaining war injuries and to provide for the insurance of employers against such liability:

It is hereby enacted as follows:—

1. *Short title, extent and commencement.*—(1) This Act may be called the War Injuries (Compensation Insurance) Act, 1943.

(2) It extends to the whole of British India, and applies also to British subjects in any part of India.

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. *Definitions.*—In this Act, unless there is anything repugnant in the subject or context,—

(a) “adult” and “minor” have the meanings assigned to those expressions in the Workmen’s Compensation Act, 1923 (VIII of 1923);

(b) ‘employer’ includes any body of persons whether incorporated or not and any managing agent of an employer and the legal representative of a deceased employer, and when the services of a workman are temporarily lent or let on hire to another person by the person with whom the workman has entered into a contract of service or apprenticeship, means the latter person while the workman is working for that other person;

¹ For Statement of Objects and Reasons, see Gazette of India, 1943, Pt. V, p. 97; and for Report of Select Committee, see *ibid.*, p. 127.

² The 16th November 1943, see Gazette of India, 1943, Pt. I, p. 1258.

(c) "the Fund" means the War Injuries Compensation Insurance Fund constituted under section 10;

(d) "gainfully occupied person" and "war injury" have the meanings assigned to those expressions in the War Injuries Ordinance, 1941 (VII of 1941);

(e) "partial disablement" means, where the disablement is of a temporary nature such disablement as reduces the earning capacity of a workman in any employment in which he was engaged at the time the injury was sustained, and where the disablement is of a permanent nature, such disablement as reduces his earning capacity in any employment which he was capable of undertaking at that time:

Provided that every injury specified in items 2 to 9 of the Schedule shall be deemed to result in permanent partial disablement;

(f) "prescribed" means prescribed by rules made under section 20;

(g) "total disablement" means such disablement, whether of a temporary or permanent nature, as incapacitates a workman for all work which he was capable of performing at the time the injury was sustained:

Provided that permanent total disablement shall be deemed to result from the permanent total loss of the sight of both eyes or from an injury specified in item 1 of the Schedule or from any combination of injuries specified in items 2 to 9 of the Schedule where the aggregate percentage of disability as specified in that Schedule against those injuries amounts to one hundred per cent.;

(h) the "Scheme" means the War Injuries Compensation Insurance Scheme referred to in sub-section (1) of section 7;

(i) "wages" means wages as defined in the Workmen's Compensation Act, 1923 (VIII of 1923), and "monthly wages" has the meaning assigned to that expression by section 5 of the Workmen's Compensation Act, 1923 (VIII of 1923), and shall be calculated for the purposes of this Act in the manner laid down in that section;

(j) "workman" means any person (other than a person whose employment is of a casual nature and who is employed otherwise than for the purposes of the employers' trade or business) who is employed in any of the employments specified in section 6.

3. *Compensation payable under the Act by whom and how payable:—*(1) There shall, subject to such conditions as may be specified in the Scheme, be payable by an employer, in respect of a war injury sustained by a gainfully occupied person who is a workman to whom this Act applies, compensation, in addition to any relief provided under the War Injuries Ordinance, 1941 (VII of 1941), of the amount and kind provided by section 5;

Provided that where an employer has taken out a policy of insurance as required by sub-section (1) of section 9 and has made all payments by way of premium thereon which are subsequently due from him in accordance with the provisions of the Scheme, or where by the provisions of sub-section (2) of section 12 the employer is not required to insure, the Central Government shall assume and discharge on behalf of the employer the employer's liability to pay compensation under this sub-section.

(2) The compensation payable under this Act shall be payable in accordance with the provisions made in this behalf contained in the Scheme.

(3) This section shall be binding on the Crown.

4. *Limitation on right to receive compensation otherwise than under this Act and Ordinance VII of 1941.*—Where any person has a right apart from the provisions of this Act and of the War Injuries Ordinance, 1941 (VII of 1941),

to receive compensation (whether in the form of gratuity, pension, compassionate payment or otherwise) or damages from an employer in respect of a war injury in respect of which compensation is payable under this Act, the right shall extend only to so much of such compensation or damages as exceeds the amount of compensation payable under this Act.

5. *Amount of compensation.*—(1) The compensation payable under this Act shall be as follows, namely:—

(a) where death results from the injury—

(i) in the case of an adult—the amount payable in a like case under the Workmen's Compensation Act, 1923 (VIII of 1923), reduced by seven hundred and twenty rupees, and

(ii) in the case of a minor—two hundred rupees;

(b) where permanent total disablement results from the injury—

(i) in the case of an adult—the amount payable in a like case under the Workmen's Compensation Act, 1923 (VIII of 1923), reduced by one thousand and eight rupees, and

(ii) in the case of a minor—the monthly payment payable in a like case to an adult under the Scheme made under the War Injuries Ordinance, 1941 (VII of 1941), for so long as he remains a minor, and thereafter as in the foregoing sub-clause;

(c) where permanent partial disablement results from the injury—

(i) in the case of an injury specified in the Schedule—such percentage of the compensation which would have been payable in the case of permanent total disablement as is specified therein as being the percentage of disablement;

(ii) in the case of an injury not specified in the Schedule—the percentage of such compensation specified in the Schedule for a disablement held by a competent medical authority acting under the Scheme made under the War Injuries Ordinance, 1941 (VII of 1941), to be of corresponding degree;

(iii) where more injuries than one are sustained—the aggregate of the compensation payable in respect of those injuries, so however as not to exceed in any case the compensation which would have been payable if permanent total disability had resulted from the injuries;

(d) where temporary disablement, whether total or partial, results from the injury—

(i) in the case of an adult—the half-monthly payments payable in a like case under the Workmen's Compensation Act, 1923 (VIII of 1923), reduced in each case for so long as he receives any payment under the Scheme made under the War Injuries Ordinance, 1941 (VII of 1941), by seven rupees, and

(ii) in the case of a minor—the half-monthly payments payable in a like case under the Workmen's Compensation Act, 1943 (VIII of 1923), for so long as he remains a minor, and thereafter as in the foregoing sub-clause.

(2) Where the monthly wages of a workman are more than three hundred rupees, the compensation payable under this Act shall be the amount payable under the provisions of sub-section (1) in the case of a workman whose monthly wages are more than two hundred rupees.

6. *Workmen to whom the Act applies.*—The workmen to whom this Act applies are—

(a) workmen employed in any employment or class of employment to which the Essential Services (Maintenance) Ordinance, 1941 (XI of 1941), has been declared under section 3 of that Ordinance to apply, whether such declaration is or is not subsequently revoked ;

(b) workmen employed in any factory as defined in clause (j) of section 2 of the Factories Act, 1934 (XXV of 1934) ;

(c) workmen employed in any mine within the meaning of the Indian Mines Act, 1923 (IV of 1923) ;

(d) workmen employed in any major port ;

(e) workmen employed on any estate which is maintained for the purpose of growing cinchona, coffee, rubber or tea, and on which on any one day in the preceding twelve months twenty-five or more persons have been employed as workmen ;

(f) workmen employed in any employment specified in this behalf by the Central Government by notification in the official Gazette.

7. War Injuries Compensation Insurance Scheme.—(1) The Central Government shall, by notification in the official Gazette, put into operation a scheme to be called the War Injuries Compensation Insurance Scheme whereby provision is made for all matters necessary to give effect to the purposes of this Act and whereby the Central Government undertakes, in relation to employers of workmen to whom this Act applies, the liabilities of insuring such employers against liabilities incurred by them to workmen under this Act and the Scheme.

(2) The Scheme shall secure that any liability of the Central Government as insurer under the Scheme is determined by a policy of insurance issued in the prescribed form by a person acting on behalf of the Central Government.

(3) The Scheme may provide that it shall come into operation or shall be deemed to have come into operation on such date as may be specified therein.

(4) The Scheme may be amended at any time by the Central Government.

(5) Without prejudice to the generality of the provisions of sub-section (1), the Scheme may—

(a) make provisions regulating the payment of the compensation payable under this Act and the Scheme, including provision for punishment by fine not exceeding one thousand rupees for the contravention of any requirement of the Scheme ;

(b) make provisions specifying the persons to whom and the proportions and manner in which payments under this Act shall be made ;

(c) specify conditions or circumstances which will disentitle a workman to the compensation payable under this Act, and make it an express or implied condition of any policy of insurance issued under the Scheme that the payment of compensation in defiance of such specification is not covered by the policy ;

(d) specify the conditions or circumstances under which the compensation payable to a workman may be withheld, cancelled, reduced or reviewed if the award made under the Scheme made under the War Injuries Ordinance, 1941 (VII of 1941), is withheld, cancelled, reduced or reviewed ;

(e) provide for cases in which an employer has of his own accord undertaken a part or the whole of the liability imposed by this Act ;

(f) provide for the final assessment of the total premium due on a policy of insurance under the Scheme as a percentage of the total wages bill of an employer for a period of not less than twelve or more than fifteen months immediately preceding the termination of the present hostilities, and for the assessment of the total premium due on a policy which has ceased to be in force before the termination of the present hostilities owing to the employer having gone out of business ;

(g) provide for the recovery from an employer of the total premium due on a policy of insurance including provision for its recovery by periodic advance payments of an amount based on a percentage of his total wages bill for any

prescribed period, the separate funding of the payments so made by each employer, and the eventual adjustment of the total premium as finally assessed against the total of such periodic payments :

Provided that the first of such periodic payments shall be an amount representing not more than four annas per hundred rupees of the wages bill for the period by reference to which the amount of the payment is fixed :

Provided further that such periodic payments shall not be more frequent than once in each quarter of a year :

Provided further that the rate of any periodic payment after the first shall not be higher than the rate estimated to raise the amount in the Fund after repayment of the advances, if any, paid into the Fund by the Central Government under sub-section (2) of section 11, to a sum of rupees fifteen lakhs.

8. Employment of agents by the Central Government.—The Central Government may employ or authorise the employment of any person or firm to act as its agents for any of the purposes of this Act, and may pay to persons or firms so employed such remuneration as the Central Government thinks fit.

9. Compulsory insurance.—(1) Every employer of workmen to whom this Act applies or is subsequently made applicable shall, before such date as may be prescribed, or before the expiry of such period as may be prescribed after his having first become such an employer, take out a policy of insurance issued in accordance with the Scheme, whereby he is insured until the termination of the present hostilities or until the date, if any, prior to the termination of the present hostilities at which he ceases to be an employer to whom this section applies, against all liabilities imposed on him by this Act.

(2) Whoever contravenes the provisions of sub-section (1) or, having taken out a policy of insurance as required by that sub-section, fails to make any payment by way of premium thereon which is subsequently due from him in accordance with the provisions of the Scheme shall be punishable with fine which may extend to one thousand rupees and shall also be punishable with a further fine which may extend to five hundred rupees for every day after having been so convicted on which the contravention or failure continues.

(3) This section shall not bind the Crown nor, unless the Central Government by notification in the official Gazette otherwise orders, any Federal Railway.

10. Prohibition of certain insurance business.—(1) After the date on which the Scheme is put into operation no person shall, except as a person authorised by the Central Government as its agent to issue policies in pursuance of the Scheme, carry on the business of insuring employers in British India against the liabilities for insurance against which the Scheme provides.

(2) Nothing in sub-section (1) applies to any policy of insurance entered into before the date on which the Scheme is put into operation and current after that date or to any policy of insurance covering liabilities undertaken in excess of the liabilities imposed by this Act.

(3) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to five thousand rupees and with a further fine which may extend to one thousand rupees for every day after the first on which the contravention continues.

11. War Injuries Compensation Insurance Fund.—(1) The Central Government shall establish a fund for the purposes of this Act to be called the War Injuries Compensation Insurance Fund into which shall be paid all sums received by the Central Government by way of insurance premiums under the Scheme or by way of payments made on composition of offences under section 17 or by way of expenses or compensation awarded by a Court under section 545 of the Code of Criminal Procedure, 1898 (V of 1898), out of any fine imposed under this Act, or by way of penalties imposed under the Scheme, and out of which shall be paid all sums required for the discharge by the Central Government of any of its liabilities under this Act or the Scheme, or for the payment by the

Central Government of the remuneration and expenses of agents employed for the purposes of the Scheme, or for the payment by the Central Government of the costs of administering the Scheme :

Provided that no payment from the Fund shall be made in discharge of any liability of the Crown to pay compensation to workmen employed by it.

(2) If at any time the sum standing to the credit of the Fund is less than the sum for the time being necessary for the adequate discharge of the purposes of the Fund, the Central Government shall pay into the Fund as an advance out of general revenues such amount as the Central Government considers necessary.

(3) If when all payments which have to be made out of the Fund have been defrayed, any balance remains in the Fund, the balance shall be constituted into a Fund to be utilised and administered by the Central Government for the benefit of workmen.

(4) The Central Government shall prepare in such form and manner as may be prescribed and shall publish every six months an account of all sums received into and paid out of the Fund.

12. *Principals and contractors.*—(1) Where a person (in this section referred to as the principal) uses, in the course of or for the purposes of his trade or business, the services of workmen temporarily lent or let on hire to him by arrangement with another person with whom the workmen have entered into contracts of service or apprenticeship, or in the course of or for the purposes of his trade or business, contracts with any other person for the execution by or under such other person of the whole or any part of any work which is ordinarily part of the trade or business of the principal (either such other person being in this section referred to as the contractor) the principal shall obtain from the contractor the name of the agent of the Central Government acting under section 8 with whom he intends to insure, and shall report to that agent the existence of his arrangement or contract with the contractor.

(2) Notwithstanding anything elsewhere contained in this Act, in any such case as is referred to in sub-section (1), it shall not be necessary for the contractor to insure against the liabilities imposed on him by this Act in respect of workmen employed by him whose services are lent or let on hire on such an arrangement or used in the execution of work on such a contract as is referred to in sub-section (1), where the arrangement or contract is for a term of less than one month.

(3) The Scheme may make provision for the supply by a contractor to a principal of any information necessary to enable the purposes of this section to be carried out including provision for punishment by fine not exceeding one thousand rupees for the contravention of any requirement of the Scheme.

13. *Power of Central Government to obtain information.*—(1) Any person authorised in this behalf by the Central Government may, for the purpose of ascertaining whether the requirements of this Act and of the Scheme have been complied with, require any employer to submit to him such accounts, books or other documents or to furnish to him such information or to give such certificates as he may reasonably think necessary.

(2) Whoever wilfully obstructs any person in the exercise of his powers under this section or fails without reasonable excuse to comply with any request made thereunder shall, in respect of each occasion on which any such obstruction or failure takes place, be punishable with fine which may extend to one thousand rupees.

(3) Whoever in purporting to comply with his obligations under this section knowingly or recklessly makes a statement false in a material particular shall be punishable with fine which may extend to one thousand rupees.

14. *Recovery of premium unpaid.*—(1) Without prejudice to the provisions of sub-section (2) of section 9, where any person has failed to insure as or to

the full amount required by this Act and the Scheme and has thereby evaded the payment by way of premium of any money which he would have had to pay in accordance with the provisions of the Scheme but for such failure, an officer authorised in this behalf by the Central Government may determine the amount payment of which has been so evaded, and the amount so determined shall be payable by such person and shall be recoverable from him as provided in sub-section (2).

(2) Any sum payable in accordance with the provisions of the Scheme by way of premium on a policy of insurance issued under the Scheme and any amount determined as payable under sub-section (1) shall be recoverable as an arrear of land-revenue.

(3) Any person against whom a determination is made under sub-section (1) may, within the prescribed period, appeal against such determination to the Central Government whose decision shall be final.

15. Payment of compensation where employer has failed to insure.—Where an employer has failed to take out a policy of insurance as required by sub-section (1) of section 9, or having taken out a policy of insurance as required by that sub-section has failed to make the payments by way of premium thereon which are subsequently due from him in accordance with the provisions of the Scheme, payment of any compensation for the payment of which he is liable under this Act may be made out of the Fund, and the sum so paid together with a penalty of such amount not exceeding the sum so paid as may be determined by an officer authorised in this behalf by the Central Government shall be recoverable from the employer as an arrear of land revenue for payment into the Fund.

16. Limitation of prosecutions.—No prosecution for any offence punishable under this Act shall be instituted against any person except by or with the consent of the Central Government or an authority authorised in this behalf by the Central Government.

17. Composition of offences.—Any offence punishable under sub-section (2) of section 9 may, either before or after the institution of the prosecution, be compounded by the Central Government or by any authority authorised in this behalf by the Central Government on payment for credit to the Fund of such sum as the Central Government or such authority, as the case may be, thinks fit.

18. Bar of legal proceedings.—(1) No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

(2) No suit shall be maintainable in any civil Court against the Central Government or a person acting as its agent under section 8 for the refund of any money paid or purporting to have been paid by way of premium on a policy of insurance taken out or purporting to have been taken out under this Act.

19. Power to exempt employers.—The Central Government shall exempt any employer from the provisions of this Act on the employer's request, if satisfied that he has before the commencement of this Act entered into a contract with insurers substantially covering the liabilities imposed on him by this Act, for so long as that contract continues.

20. Power to make rules.—(1) The Central Government may, by notification in the official Gazette, make rules to carry into effect the provisions of this Act.

(2) Without prejudice to the generality of the foregoing power such rules may prescribe—

(a) the principles to be followed in ascertaining the total wages bill of an employer, including provision for the exclusion therefrom of certain categories of wages or of certain elements included in the definition of wages ;

(b) the form of the policies of insurance referred to in sub-section (2) of section 7 ;

(c) the period referred to in clause (g) of sub-section (5) of section 7 ;

(d) the associations referred to in the proviso to section 8 ;

(e) the date and the period referred to in sub-section (1) of section 9 ;

(f) the form of and the manner of preparing and publishing the account referred to in sub-section (4) of section 11 ;

(g) the periods referred to in sub-section (3) of section 14.

21. Application of the Scheme to Indian States.—(1) If the Central Government is satisfied that by the law of an Indian State provision has been made substantially corresponding to the provision made by this Act imposing liabilities upon employers and requiring them to take out policies of insurance covering such liabilities, the Central Government may, by notification in the official Gazette, declare that this section shall apply to that State.

(2) On the application of this section to any State the Scheme made under this Act shall extend to the undertaking by the Central Government in respect of employers in that State of the same liabilities in the same manner, to the same extent and subject to the same conditions as if such employers were in British India.

(3) On the application of this section to any State the provisions of section 10 shall be deemed to prohibit any person except a person authorised by the Central Government as its agent to issue policies in pursuance of the Scheme from carrying on after the date of the notification by which this section is applied the business of insuring employers in that State against liabilities insurance against which is provided under the Scheme.

THE SCHEDULE.

[See sections 2 (1) and 5 (1).]

Item No.	Injury.	Percentage of disability.
1	Loss of two or more limbs. Lunacy. Jacksonian epilepsy. Very severe facial disfigurement.	100
2	Loss of right arm above or at the elbow.	90
3	Severe facial disfigurement. Total loss of speech. Loss of left arm above or at the elbow. Loss of right arm below the elbow. Loss of leg at or above the knee.	70
4	Loss of left arm below the elbow. Loss of leg below the knee. Permanent total loss of hearing.	60
5	Loss of one eye. Loss of right thumb or four fingers of right hand.	50
6	Loss of all toes of both feet above knuckle. Loss of left thumb or four fingers of left hand or three fingers of right hand.	40
7	Loss of all toes of one foot above knuckle. Loss of all toes of both feet at or below knuckle.	30
8	Limited restriction of movement of joints through injury without penetration, limited function of limb through fracture. Loss of two fingers of either hand. Compound fracture of thumb or two or more fingers of either hand with impaired function.	20
9	Loss of one phalanx of thumb. Loss of index finger. Loss of great toe.	10

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PART II

Unrepealed Ordinances 1941–1943

100—101

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THE AIR RAID PRECAUTIONS SERVICES ORDINANCE, 1941. Ordinance No. IV of 1941.¹

An Ordinance to provide for the constitution of Air Raid Precautions Services.

(Published in the Gazette of India Extraordinary of the 10th May, 1944.)

WHEREAS an emergency has arisen which makes it necessary to provide for the constitution of Air Raid Precautions Services to carry out measures for the protection of persons and property against hostile attack whether from the air or otherwise ;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Air Raid Precautions Services Ordinance, 1941.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Interpretation.*—In this Ordinance, unless there is anything repugnant in the subject or context, the expression “ Provincial Government ” means in relation to a Chief Commissioner’s Province the Chief Commissioner.

3. *Constitution of Air Raid Precautions Services.*—The Provincial Government may constitute for any area a body to be called an Air Raid Precautions Service, and may appoint a person, hereinafter called the Controller, to command such body in such area.

4. *Appointment of members and officers.*—(1) Any authority authorized in this behalf by the Provincial Government may appoint as members of an Air Raid Precautions Service so many persons who are fit and willing to serve as such as it is authorized by the Provincial Government to appoint, and the Controller may appoint any such member to any office of command in the Service.

(2) Every person so appointed to be a member of an Air Raid Precautions Service shall be given a certificate of membership in such form as may be prescribed.

5. *Dismissal of members.*—The Controller or any other authority authorized in this behalf by the Provincial Government may by order in writing dismiss summarily from an Air Raid Precautions Service any member thereof if, in the opinion of the Controller or such other authority, he fails to discharge satisfactorily his duties as such member, or is guilty of misconduct in the discharge of his duties as such member, or his continued presence in the Service is otherwise undesirable.

6. *Functions of members.*—(1) The members of an Air Raid Precautions Service shall perform such functions in relation to the carrying out of measures for the protection of persons and property against hostile attack as may be assigned to them by or under this Ordinance or any other law for the time being in force.

(2) The Controller or any person authorized in this behalf by the Controller or by the Provincial Government, may at any time call out a member of an Air Raid Precautions Service for training or to discharge any such function as aforesaid.

7. *Bar of suits.*—No suit, prosecution or other legal proceeding shall lie against the Controller or any member of an Air Raid Precautions Service for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rules made thereunder.

¹Applied to Br. Baluchistan, see Notification No. 13-W., dated the 25th May 1941, Gaz. of India, 1941, Pt. I. p. 751, and to the Darjeeling Dist. and the partially excluded areas of the Mymensingh Dist. with effect from 29th May, 1941, see Ben. Govt. Notification No. 3685-P., dated the 21st May 1941.

8. *Protection against prosecution.*—No prosecution shall be instituted against the Controller or any member of an Air Raid Precautions Service in respect of anything done or purporting to be done by him in discharge of his functions as such Controller or member except with the previous sanction of the Provincial Government.

9. *Penalty.*—If any member of an Air Raid Precautions Service, on being called out under sub-section (2) of section 6, without sufficient excuse neglects or refuses to obey such order or to discharge his functions as a member of the Air Raid Precautions Service or to obey any lawful order or direction given to him for the performance of his duties, he shall, on conviction by a competent Court, be punishable with fine which may extend to fifty rupees.

10. *Rule-making power.*—(1) The Central Government may make rules consistent with this Ordinance—

(a) prescribing the duties of members of Air Raid Precautions Services, and regulating the manner in which they may be called out for service ;

(b) regulating the organization, appointment, conditions of service, discipline, accoutrements and clothing of members of any or all Air Raid Precautions Services ;

(c) prescribing the form of certificates of membership of any or all Air Raid Precautions Services ;

(d) generally for giving effect to the provisions of this Ordinance.

(2) The Central Government may delegate to a Provincial Government its power to make rules under this section.

THE STATE PRISONERS (DETENTION OF LUNATICS) ORDINANCE, 1941.

Ordinance No. V of 1941.¹

An Ordinance to authorise the reception and detention in an asylum of individuals committed by warrants issued under the Bengal State Prisoners Regulations, 1818, to detention in that asylum.

(Published in the Gazette of India Extraordinary of the 26th June, 1941.)

WHEREAS an emergency has arisen which makes it necessary to authorise the reception and detention in an asylum of individuals committed by warrants issued under the Bengal State Prisoners Regulation, 1818 (Ben. Reg. III of 1818), to detention in that asylum ;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo. 5, c. 2.), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the State Prisoners (Detention of Lunatics) Ordinance, 1941.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Power to receive and detain in asylum person restrained under Regulation III of 1818.*—Notwithstanding anything contained in the Indian Lunacy Act, 1912, (IV of 1912), a warrant of commitment issued under section 2 of the Bengal State Prisoners Regulation, 1818, (Ben. Reg. III of 1818), directing the detention in an asylum of an individual placed under personal restraint in pursuance of that section, who is, in the opinion of the authority issuing that warrant, insane, shall be and shall be deemed to have been from the time such warrant was issued sufficient authority for the reception and detention of that individual in that asylum or in any other asylum to which he may be lawfully transferred.

¹Applied to Br. Baluchistan, see Notification No.111-F., dated the 22nd July, 1941, Gaz. of India, 1941, Pt. I. p. 1040, to the Chittagong Hill-tracts with effect from 31st July, 1941, see Ben. Govt. Notification No. 427-T.S., dated the 25th July, 1941, and to the Darjeeling Dist. and the partially excluded areas of the Mymensingh Dist., see Ben. Government Notification No. 6094-P., dated the 13th August, 1941.

THE WAR INJURIES ORDINANCE, 1941.

Ordinance No. VII of 1941.¹

An Ordinance to make provision for the grant of relief in respect of certain personal injuries sustained during the continuance of the present hostilities.

(Published in the Gazette of India Extraordinary of the 25th July, 1941.)

WHEREAS an emergency has arisen which renders it necessary to make provision for the grant of relief in respect of certain personal injuries sustained during the continuance of the present hostilities ;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the War Injuries Ordinance, 1941.

(2) It extends to the whole of British India ²[and applies also to British subjects and servants of the Crown in any part of India.]

(3) It shall come into force at once.

2. *Interpretation.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(1) “civil defence organisation” means any organisation established for civil defence purposes which is declared by a scheme to be a civil defence organisation for the purposes of this Ordinance and the scheme ;

(2) “civil defence volunteer”, in relation to an injury, means a person certified, by an officer of a civil defence organisation authorised by the Central Government to grant such certificates, to have been a member of that organisation at the time the injury was sustained ;

(3) “continuance of the present hostilities” means the period beginning with the commencement of this Ordinance and ending with such date as the Central Government may, by notification in the official Gazette, declare to be the date on which the present hostilities terminated ;

(4) “gainfully occupied person” means a person who is engaged in any trade, business, profession, office, employment or vocation and is wholly or substantially dependent thereon for a livelihood, or a person who, though temporarily unemployed is normally so engaged and dependent ;

(5) “scheme” means a scheme made under this Ordinance ;

(6) “war injury” means a physical injury—

(a) caused by—

(i) the discharge of any missile (including liquids and gas), or

(ii) the use of any weapon, explosive or other noxious thing, or

(iii) the doing of any other injurious act,

either by the enemy or in combating the enemy or in repelling an imagined attack by the enemy ; or

(b) caused by the impact on any person or property of any enemy aircraft, or any aircraft belonging to or held by any person on behalf of or for the benefit of His Majesty or any allied power, or any part of, or anything dropped from, any such aircraft ;

¹Applied to Br. Baluchistan, see Notfn. No. 23-W., dated the 1st October, 1941 : to the Darjeeling Dist. and the partially excluded areas of the Mymensingh Dist., with effect from 11th September, 1941, see Ben. Govt. Notfn. No. 3824-Com., dated the 9th September 1941 ; and to the Chittagong Hill-tracts, with modification, with effect from 8th October 1942, see Ben. Govt. Notfn. No. 182-S., dated the 30th September 1942.

²Ins., War Injuries (Second Amdt.) Ordinance, 1942, (39 of 1942).

(7) "war service injury", in relation to a civil defence volunteer, means any physical injury shown to the satisfaction of the Central Government or other authority authorised to make payments under a scheme to have arisen out of and in the course of the performance by the volunteer of his duties as a member of the civil defence organisation to which he belonged at the time the injury was sustained, and (except in the case of a war injury) not to have arisen out of and in the course of his employment in any other capacity :

Provided that before being so satisfied the Central Government or other authority authorised to make payments under a scheme shall have received from the civil defence organisation of which the volunteer concerned was a member at the time the injury was sustained, a report, by an officer of the organisation authorised by the Central Government to make such reports, about the injury in question.

3. *Power to make schemes for relief in respect of war injuries and war service injuries.*—(1) The Central Government may make a scheme or schemes in accordance with the provisions of this Ordinance providing for the grant of relief in respect of the following injuries sustained during the continuance of the present hostilities, namely :—

(a) war injuries sustained by gainfully occupied persons (with such exceptions, if any, as may be specified in the scheme) and by persons of such other classes as may be so specified ; and

(b) war service injuries sustained by civil defence volunteers.

(2) A scheme may authorise the Central Government, or any authority authorised by the Central Government to make payments under the scheme, in such circumstances and subject to such conditions as may be specified in the scheme, to make to or in respect of persons injured—

(a) payments by way of temporary allowance, which shall be payable only so long as the person injured is incapacitated for work by the injury and has not received any such payment as is mentioned in clause (b) ;

(b) payments otherwise than by way of temporary allowance, which shall be payable only where the injury causes serious and prolonged disablement or death ; and

(c) payments for the purchase of or the grant at the cost of Government of artificial limbs or surgical or other appliances ¹[and payments for medical and surgical treatment].

(3) A scheme may empower the Central Government to make regulations for giving effect to the purposes of the scheme.

(4) A scheme may provide that it shall come into operation or shall be deemed to have come into operation on such date as may be specified therein.

(5) A scheme may be amended or rescinded at any time by the Central Government.

(6) Any decision of the Central Government or other authority empowered to make payments under a scheme as to the making, refusal or amount, or as to the continuance or discontinuance, of a payment under a scheme may be varied from time to time by a subsequent decision of the Central Government or such authority as the case may be, but save in so far as it is so varied shall be final and conclusive.

4. *Relief from liability to pay compensation or damages.*—(1) In respect of a war injury sustained during the continuance of the present hostilities by any person, and in respect of a war service injury sustained during that period by a civil defence volunteer, no such compensation or damages shall be payable,

¹Added, War Injuries (Amdt.) Ordinance, 1942 (1 of 1942).

whether to the person injured or to any other person, as apart from the provisions of this sub-section—

(a) would be payable under the Workmen's Compensation Act, 1923 ; (VIII of 1923), or

(b) would, whether by virtue of any enactment or by virtue of any contract or at common law, be payable—

(i) in the case of a war injury, by any person, or

(ii) in the case of a war service injury sustained by a civil defence volunteer, by the employer of the volunteer, or by any person who has responsibility in connection with the volunteer's duties as such or by any other civil defence volunteer,

on the ground that the injury in question was attributable to some negligence, nuisance or breach of duty for which the person by whom the compensation or damages would be payable is responsible.

(2) The failure to give a notice or make a claim or commence proceedings within the time required by any enactment shall not be a bar to the maintenance of proceedings in respect of any personal injury, if—

(a) an application for a payment under a scheme has been duly made to the Central Government or other authority empowered to make payments under the scheme in respect of the injury ; and

(b) the Court or other authority before which the proceedings are brought is satisfied that the said application was made in the reasonable belief that the injury was such that a payment could be made under the scheme ; and

(c) the Central Government or other authority empowered to make payments under the scheme certifies that the application was rejected, or that payments made in pursuance of the application were discontinued, on the ground that the injury was not such an injury ; and

(d) the proceedings are commenced within one month from the date of the said certificate.

5. *Information as to earnings.*—(1) Where it is necessary in order to determine the amount of any payment to be awarded under a scheme in respect of any injury, to ascertain the earnings of the person injured in respect of any period before he sustained the injury, the Central Government or other authority authorised to make payments under the scheme may by notice in writing require—

(a) any person who was an employer of the injured person during that period, or

(b) any other person having any knowledge with respect to the financial circumstances of the injured person during that period, to furnish in accordance with the notice any information in his possession relating to those earnings or circumstances, and to produce to any person specified in the notice any wage books, records or other documents in his possession containing entries with respect to those earnings.

(2) If any person—

(a) fails to comply with the requirements of any such notice, or

(b) in purported compliance with any such notice, knowingly or recklessly makes any untrue statement or untrue representation, or produces any document which is false in a material particular or calculated to deceive,

he shall be punishable with fine which may extend to three hundred rupees

¹[5A. (1) *Medical attention in dispensaries and hospitals.*—The person managing any dispensary or hospital shall, if so required by the Central or a Provincial Government by general or special order,—

(a) provide at the dispensary or hospital medical and surgical treatment for persons who have sustained injuries of the nature specified in sub-section (1) of section 3, and

(b) keep such records and make such returns relating to the persons treated for such injuries as may be required by or under a scheme.

(2) If any person fails to comply when so required with the provisions of this section he shall be punishable with fine which may extend to one thousand rupees.]

6. *Penalty for false statement.*—Any person who, for the purpose of obtaining a payment or grant under a scheme either for himself or for any other person, knowingly makes any untrue statement or untrue representation, shall be punishable with imprisonment for a term which may extend to three months.

7. *Assignments or charges to be void.*—Any assignment of, or charge on, and any agreement to assign or charge any payment awarded or to be awarded under a scheme shall be void, and, on the insolvency of any person to whom such a payment has been awarded, the payment shall not pass to any trustee or other person acting on behalf of the creditors.

THE ACTIVE SERVICE ORDINANCE, 1941.

Ordinance No. X of 1941.

An Ordinance to declare that certain persons shall be deemed to be on active service for the purposes of the Army Act, the Air Force Act, the Indian Army Act, 1911, and the Indian Air Force Act, 1932.

(Published in the Gazette of India Extraordinary of the 6th December 1941.)

WHEREAS an emergency has arisen which makes it necessary to declare that certain persons shall be deemed to be on active service for the purposes of the Army Act, the Air Force Act, the Indian Army Act, 1911, and the Indian Air Force Act, 1932 ;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Active Service Ordinance, 1941.

(2) It extends to the whole of British India and applies also to British subjects and servants of the Crown in any part of India and to all members of and persons attached to, employed with or following, any military or air force raised in British India, wherever they may be.

(3) It shall come into force at once.

2. *Certain persons to be deemed to be on active service for the purposes of the Army and Air Force Acts.*—Notwithstanding anything contained in sub-section (1) of section 189 of the Army Act, (44 and 45 Vict., c. 58), sub-section (1) of section 189 of the Air Force Act, clause (13) of section 7 of the Indian Army Act, 1911, (VIII of 1911), or clause (11) of section 6 of the Indian Air Force Act, 1932 (XIV of 1932), all persons forming part of and all persons who are employed by, or are in the service of, or are followers of, or accompany any portion of, His Majesty's Forces ²[or any force to which clause (13) of section

¹Ins., War Injuries (Amdt.) Ordinance, 1942 (1 of 1942).

²Ins., Indian Army Act (Application) Ordinance, 1942 (31 of 1942).

7 of the Indian Army Act, 1911, for the time being applies by virtue of a notification under sub-section (1) of section 5 of that Act] shall, until such date as the Central Government may, by notification in the official Gazette, declare to be the date on which the present hostilities terminated, be deemed for the purposes of each of the said Acts to be on active service.

3. *Saving as to past proceedings.*—No punishment inflicted, and no order passed or other action taken in any proceedings held, under any of the Acts specified in section 2 shall, after the commencement of this Ordinance, be called in question in any Court on the ground only that the person on whom the punishment was inflicted or to whose prejudice the order was passed or the action was taken was not on active service, if—

(a) the act for which the punishment was inflicted, or in respect of which the proceedings were commenced, occurred on or after the 3rd day of September, 1939, and

(b) such person, at the time the act was committed, formed part of, or was employed by, or was in the service of, or was a follower of, or accompanied any portion of, His Majesty's Forces.

THE ESSENTIAL SERVICES (MAINTENANCE) ORDINANCE, 1941.

Ordinance No. XI of 1941.¹

An Ordinance to make provision for the maintenance of certain essential services.

(Published in the Gazette of India Extraordinary of the 20th December, 1941.)

WHEREAS an emergency has arisen which renders it necessary to make provision for the maintenance of certain essential services ;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Essential Services (Maintenance) Ordinance, 1941.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Interpretation.*—In this Ordinance, unless there is anything repugnant in the subject or context, “employment” includes employment of any nature and whether paid or unpaid.

3. *Employment to which this Ordinance applies.*—This Ordinance shall apply to all employment under the Crown and to any employment or class of employment which the Central Government or a Provincial Government, being of opinion that such employment or class of employment is essential for securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war, or for maintaining supplies or services necessary to the life of the community, may, by notification in the official Gazette, declare to be an employment or class of employment to which this Ordinance applies.

4. *Power to order persons engaged in certain employments to remain in specified areas.*—(1) ²[In respect of any employment under the Crown, the Government under which the person or persons concerned are employed or an

¹Applied to Br. Baluchistan, see Notfn. No. 1-W., dated the 8th January 1942, Gaz. of India, 1942, Pt. I p. 80, and to certain Baluch Tribal Areas, see Notfn. No. 7-W., dated the 22nd January 1942, Gaz. of India, 1942, Pt. I, p. 173.

²Ins., Essential Services (Maintenance) Amdt. Ordinance, 1942 (26 of 1942).

officer authorized in this behalf by that Government, and] in respect of any employment or class of employment under section 3 to be an employment or class of employment to which this Ordinance applies, the Government making the declaration, or an officer authorised in this behalf by that Government, may, by general or special order, direct that any person or persons engaged in such employment shall not depart out of such area or areas as may be specified in such order.

(2) An order made under sub-section (1) shall be published in such manner as the Government or officer making the order considers best calculated to bring it to the notice of the persons affected by the order.

5. *Offences.*—Any person engaged in any employment or class of employment to which this Ordinance applies who—

(a) disobeys any lawful order given to him in the course of such employment, or

(b) without reasonable excuse abandons such employment or absents himself from work, or

(c) departs from any area specified in an order under sub-section (1) of section 4 without the consent of the authority making that order, and any employer of a person engaged in an employment or class of employment declared under section 3 to be an employment or class of employment to which this Ordinance applies, who without reasonable cause—

(i) discontinues the employment of such person, or

(ii) by closing an establishment in which such person is engaged, causes the discontinuance of his employment,

is guilty of an offence under this Ordinance.

¹[*Explanation 1.*—The fact that a person apprehends that by continuing in his employment he will be exposed to increased physical danger is not a reasonable excuse within the meaning of clause (b).]

Explanation 2.—A person abandons his employment within the meaning of clause (b) who, notwithstanding that it is an express or implied term of his contract of employment that he may terminate his employment on giving notice to his employer of his intention to do so, so terminates his employment without the previous consent of his employer.]

6. *Regulation of wages and conditions of service.*—(1) The Central Government or, ²* * * * a Provincial Government may make rules regulating or empowering a specified authority to regulate the wages and other conditions of service of persons or of any class of persons engaged in any employment or class of employment declared under section 3 to be an employment or class of employment to which this Ordinance applies.

(2) When any such rules have been made or when any directions regulating wages or conditions of service have been given by an authority empowered by such rules to give them, any person failing to comply therewith is guilty of an offence under this Ordinance.

7. *Penalties and procedure.*—(1) Any person found guilty of an offence under this Ordinance shall be punishable with imprisonment for a term which may extend to one year and shall also be liable to fine.

(2) Where the person accused of an offence under this Ordinance is a company or other body corporate, every director, manager, secretary or other officer thereof shall, unless he proves that the offence was committed without his knowledge or that he exercised due diligence to prevent the commission of the offence, be liable to the punishment provided for the offence.

¹Ins., Essential Services (Maintenance) Amdt. Ordinance, 1942 (26 of 1942).

²Words omitted, *ibid.*

(3) No Court shall take cognizance of any offence under this Ordinance except upon complaint in writing made by a ¹[servant of the Crown] authorised in this behalf by the Central or a Provincial Government.

²[(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, (V of 1898), an offence under this Ordinance shall be cognizable.]

8. *Bar of legal proceedings.*—No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Ordinance or the rules made thereunder.

³[9. *Saving of effect of laws imposing liability to national service.*—Nothing contained in this Ordinance or in any declaration or order made thereunder shall have effect in derogation of any provision of law for the time being in force imposing upon a person engaged in an employment or class of employment to which this Ordinance applies any liability to be called up for national service or to undertake employment in the national service.]

THE PENALTIES (ENHANCEMENT) ORDINANCE, 1942.

Ordinance No. III of 1942.⁴

An Ordinance to enhance in certain circumstances the penalties provided by law for the punishment of certain offences.

(Published in the Gazette of India Extraordinary of the 2nd January, 1942.)

WHEREAS an emergency has arisen which makes it necessary to enhance in certain circumstances the penalties provided by law for the punishment of certain offences ;

Now therefore in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo. 5 c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and operation.*—(1) This Ordinance may be called the Penalties (Enhancement) Ordinance, 1942.

(2) It extends to the whole of British India.

(3) It shall come into force at once ; but sections 3 to 7 inclusive shall have effect only in pursuance of and in accordance with a notification issued, under section 2 and only so long as such notification remains unrescinded.

2. *Power of Provincial Government to put the provisions of this Ordinance into effect.*—The Provincial Government may, from time to time by notification in the official Gazette, ⁵declare that sections ⁶[3 to 7A] inclusive, or any of them, or such provisions of section 4 or section 7 [or section 7A]⁷ as relate to a particular offence or particular offences therein specified shall have effect throughout the Province, or in any specified area in the Province.

3. *Punishment for theft.*—Whoever commits theft in any premises which have been damaged by war operations, or vacated by reason of attack by the enemy or in consequence of any authorised directions given for the purpose of meeting or hindering any actual or apprehended attack by the enemy or of protecting persons and property from the dangers involved in any such attack,

¹Subst. Essential Services (Maintenance) Amdt. Ordinance, 1943 (2 of 1943).

²Added, Essential Services (Maintenance) Amdt. Ordinance, 1942 (26 of 1942).

³Subst. Essential Services (Maintenance) Second Amdt. Ordinance, 1942 (38 of 1942).

⁴Applied to Br. Baluchistan, see Notfn. No. 6-W., dated the 16th January 1942, Gaz. of India, 1942, Pt. I p. 119.

⁵Ss. 3-7 declared to have effect throughout Ajmer-Merwara, see Gaz. of India, 1942, Extraordinary, p. 1015 ; in Madras Presidency from 12th March, 1943, see Madras Govt. Notfn. No. 756, dated the 6th March, 1942 ; and s. 7-A, in the Chittagong Hill tracts from 1st April, 1943, see Ben. Govt. Notfn. No. 392-S., dated the 26th March, 1943.

⁶Subst. Penalties (Enhancement) Amdt. Ordinance, 1943 (3 of 1943).

⁷Ins., *ibid.*

or commits theft of any article which has been left exposed or unprotected as a consequence of war operations shall be punished with death, or with rigorous imprisonment for a term which may extend to ten years, or with whipping¹[or with whipping in addition to such rigorous imprisonment.]

Explanation.—In this section “theft” means theft as defined in section 378 of the Indian Penal Code [XLV of 1860], and “authorised directions” means any order or directions made or given in the exercise of any power conferred by or under the Defence of India Act, 1939, (XXXV of 1939), or made or given by any officer of His Majesty’s Forces acting in the course of his duties.

4. *Punishment for offences under sections 326, 386, 387, 392, 393, 399, 435 and 436, Indian Penal Code.*—Whoever commits an offence punishable under section 326²[or section 386 or section 387 or section 392 or section 393 or section 399] or section 435 or section 436 of the Indian Penal Code (XLV of 1860), may, in lieu of any punishment to which he is liable under the said Code, be punished with death, or with whipping²[or with whipping in addition to any punishment to which he is liable under the said Code.]

5. *Punishment for contraventions of rule 35, Defence of India Rules.*—Whoever contravenes any of the provisions³[for the time being in force] of rule 35 of the Defence of India Rules³[or is deemed under rule 121 of the said Rules to have contravened any such provision] may, in lieu of any punishment to which he is liable under⁴[the said Rules] be punished with death, or with whipping¹[or with whipping in addition to any punishment to which he is liable under⁴[the said Rules.]

6. *Punishment for offences under section 376, Indian Penal Code.*—Whoever commits an offence punishable under section⁵[376]²[or section 380 or section 382 or section 394 or section 395], of the Indian Penal Code (XLV of 1860), may, in lieu of any punishment to which he is liable under the said Code or under the Whipping Act, 1909 (IV of 1909), be punished with death¹[or in the case of an offence punishable under section 389 or section 382 with whipping in addition to any punishment to which he is liable under the said Code.]

7. *Punishment for offences under sections 147, 148 and 186, Indian Penal Code.*—Whoever commits any offence punishable under section⁵[147] or section 148 or section 186 of the Indian Penal Code (XLV of 1860), may, in lieu of²[or in addition to] any punishment to which he is liable under the said Code, be punished with whipping.

⁶[7A. *Punishment for offences under sections 3, 4 and 5 of Act VI of 1908.*—Whoever commits an offence punishable under section 3 or section 4 or section 5 of the Explosive Substances Act, 1908, (VI of 1908), may, in lieu of any punishment to which he is liable under the said Act, be punished with death, or with whipping, or with whipping in addition to any punishment to which he is liable under the said Act.

7B. *Punishment for attempts to commit, and abetment of, offences.*—Whoever attempts to commit, or abets, or attempts to abet, or does any act preparatory to the commission of, any offence referred to in section 3, 4, 6, 7 or 7A shall, notwithstanding anything contained in the Indian Penal Code (XLV of 1860), be punishable with the punishment provided for the commission of the offence.]

8. *Savings.*—Notwithstanding anything elsewhere contained in any Act, Regulation or Ordinance, an offence made punishable with death by this Ordinance shall not, by reason of having been made so punishable, cease to be triable by any Court which might have tried the offence had it not been made so punishable.

¹Added, Penalties (Enhancement) Second Amdt. Ordinance, 1942 (29 of 1942).

²Ins., *ibid.*

³Ins., Penalties (Enhancement) Third Amdt. Ordinance, 1942 (46 of 1942).

⁴Subst., *ibid.*

⁵Subst., Penalties (Enhancement) Amdt. Ordinance, 1942 (7 of 1942).

THE MOTOR VEHICLES (DRIVERS) ORDINANCE, 1942.

Ordinance No. V of 1942.¹

An Ordinance to provide for the requisitioning on behalf of Government of the services of persons capable of driving motor vehicles.

(Published in the Gazette of India Extraordinary of the 27th January, 1942.)

WHEREAS an emergency has arisen which makes it necessary to take powers to require persons capable of driving motor vehicles to place themselves and their services at the disposal of Government ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Motor Vehicles (Drivers) Ordinance, 1942.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Definitions.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “ licensing authority ” means a licensing authority appointed for the purposes of the Motor Vehicles Act, 1939 (IV of 1939) ;

(b) “ motor vehicle ” means any mechanically propelled vehicle adapted for use upon roads ;

(c) “ Provincial Government ” means, in relation to a Chief Commissioner’s Province, the Chief Commissioner ;

(d) “ transport vehicle ” has the meaning assigned to that expression in the Motor Vehicles Act, 1939 (IV of 1939).

3. *Register of motor vehicle drivers.*—(1) The Provincial Government may cause any licensing authority to prepare for the Province or for any area in the Province a register in which shall be entered the names of such persons within the Province or area, as the case may be, who are capable of driving a motor vehicle as the licensing authority may think fit to enter, together with such details of their qualifications as drivers as may be prescribed by rules made under section 8.

(2) The register shall show under separate headings those persons who are capable of driving a transport vehicle, and those persons who are not so capable.

(3) The licensing authority shall, on entering the name of any person in the register, send to that person a notice in writing informing him that his name has been entered in the register for the Province or area, as the case may be, stating whether he has been registered as capable of driving a transport vehicle or not, and informing him of the provisions of section 4 and section 5 of this Ordinance.

(4) The licensing authority may, for the purpose of preparing the register under sub-section (1), by notice in writing, call upon any person to furnish in accordance with the requirements of the notice any information relating to his qualifications as a driver of motor vehicles which may be required by such notice.

¹Applied to Br. Baluchistan, see Notfn. No. 23-W., dated the 19th February 1942, *Gaz. of India*, 1942, Pt. I, p. 362, and to all the excluded areas in Assam, see Assam Govt. Notfn. No. Ex.3542-G.S., dated 21st February 1942.

4. *Power to requisition services.*—(1) Any officer empowered in this behalf by the Provincial Government may, by order in writing delivered to any person whose name is enrolled in the register referred to in section 3, require him to present himself at such time and at such place and to such authority within the Province as may be specified in the order and to perform within the Province such services and for such time as may be so specified or as may be required of him by the authority to whom he has presented himself in pursuance of such order.

(2) An order under sub-section (1) may require a person to drive a motor vehicle notwithstanding that he is not licensed under the Motor Vehicles Act, 1939 (IV of 1939), to drive a motor vehicle or a motor vehicle of the class to which the vehicle to be driven belongs, and nothing in section 3 of the Motor Vehicles Act, 1939 (IV of 1939), shall apply to such person in respect of any motor vehicle driven by him in obedience to any such order.

5. *Registered persons to notify changes of address, and obtain permission to leave area of registration.*—Any person to whom the notice under sub-section (3) of section 3 is sent shall thereafter, on any change occurring in his address, at once report such change to the licensing authority, and shall not depart out of the Province or area, as the case may be, in which he is registered without first informing the licensing authority and receiving permission from that authority to depart.

6. *Penalties.*—(1) Whoever fails to comply with the requirements of any notice issued under sub-section (4) of section 3 or in purported compliance with any such notice knowingly or recklessly makes any untrue statement, or without reasonable excuse fails to report as required by section 5 any change occurring in his address shall be punishable with fine which may extend to one hundred rupees.

(2) Whoever without reasonable excuse fails to comply with an order in writing made under sub-section (1) of section 4 or to perform in the manner required any service which he is required to perform in pursuance of such order or, in contravention of section 5, departs out of the area in which he is registered shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

(3) Whoever being the employer of a person required by an order under sub-section (1) of section 4 to present himself for service does anything calculated to prevent such person from or to obstruct such person in complying with the order shall be punishable with imprisonment for a term which may extend to six months, or with fine, or with both.

¹[6A. (1) It shall be the duty of any employer by whom a person, who has been required by an order under sub-section (1) of section 4 to perform any service, was employed to reinstate him in his former employment on the termination of that service in an occupation and under conditions not less favourable to him than those which would have been applicable to him had he not been required to perform that service :

Provided that if the employer refuses to reinstate such person, or denies his liability to reinstate such person or if for any reason the reinstatement of such person is represented by the employer to be impracticable, either party may refer the matter to the authority authorised in this behalf by the Provincial Government and such authority shall, after due consideration, pass an order

either exempting the employer from the provisions of this sub-section or requiring him to re-employ such person on such terms as it thinks suitable or to pay to such person a sum in compensation for failure to re-employ him not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer.

(2) If any employer fails to obey an order passed under the proviso to sub-section (1) by the authority authorised under that proviso, he shall be punishable with fine which may extend to one thousand rupees, and the Court by which he is convicted may, in addition to any other penalty, order him (if he is not already so required by the said authority) to pay the person whom he has failed to re-employ a sum not exceeding an amount equal to six months' remuneration at the rate at which his last remuneration was payable to him by the employer ; and any amount so required by the said authority to be paid or so ordered by the Court to be paid, shall be recoverable as if it were a fine imposed by such Court :

Provided that in any proceedings under this sub-section it shall be a defence for an employer to prove that the person formerly employed by him had not been in his continuous employment for six months or did not apply to him for reinstatement within a period of two months from the termination of the service which such person was required to perform by an order under sub-section (1) of section 4.

(3) The duty imposed by sub-section (1) upon an employer to reinstate in his employment a person such as is described in that sub-section shall attach to an employer who before such person is actually required to present himself for service or to perform service under this Ordinance terminates his employment in circumstances such as to indicate an intention to evade the duty imposed by that sub-section ; and such intention shall be presumed until the contrary is proved if the termination of the employment takes place after the delivery of an order under sub-section (1) of section 4 to such person.]

7. *Sanction for prosecutions.*—No prosecution for an offence punishable under this Ordinance and no prosecution for an offence punishable under the Motor Vehicles Act, 1939 (IV of 1939), committed by a person who is for the time being acting in obedience to an order under sub-section (1) of section 4 of this Ordinance, shall be instituted without the previous sanction in writing of the Provincial Government or of an authority authorised in this behalf by the Provincial Government.

8. *Power to make rules.*—(1) The Provincial Government may, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

(2) Without prejudice to the generality of the foregoing power, rules may be made providing for all or any of the following matters, namely :—

(a) the form of the register referred to in section 3, the principles to be followed in selecting names for entry therein, and the details to be recorded therein ;

(b) the form of any order in writing or notice in writing to be issued under this Ordinance ;

(c) the payment of persons whose services are requisitioned under this Ordinance for the services rendered.

¹[(d) the manner of making references under the proviso to sub-section (1) of section 6A.]

¹Added, Motor Vehicles (Drivers) Amdt. Act, 1943 (19 of 1943).

THE COTTON FUND ORDINANCE, 1942.

Ordinance No. VIII of 1942.

An Ordinance to enable a fund to be established for financing measures for the benefit of the growers of cotton.

(Published in the Gazette of India Extraordinary of the 29th January, 1942.)

WHEREAS an emergency has arisen which makes it necessary to enable a fund to be established for financing measures for the benefit of the growers of certain types of cotton which were exported in large quantities to the Far East before the outbreak of the present war with Japan ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Cotton Fund Ordinance, 1942.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Additional duty of customs on cotton.*—There shall be levied and collected in addition to any duty of customs imposed by or under any enactment for the time being in force an additional duty of customs on raw cotton imported into any port in British India at the rate of one anna per pound.

3. *Establishment of fund and purposes thereof.*—The proceeds of the additional import duty imposed on raw cotton by this Ordinance shall be credited to a separate fund to be established by the Central Government, and the said fund shall be utilised by the Central Government to finance such measures for the benefit of the growers of cotton in India as the Central Government thinks advisable.

THE CIVIL PIONEER FORCE ORDINANCE, 1942.

Ordinance No. X of 1942.¹

An Ordinance to constitute a Civil Pioneer Force for service in [India]² and to provide for the organization, control and discipline thereof.

(Published in the Gazette of India Extraordinary, dated the 7th March, 1942.)

WHEREAS, an emergency has arisen which makes it necessary to constitute a Civil Pioneer Force for service in [India]², and to provide for the organization, control and discipline thereof ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Civil Pioneer Force Ordinance, 1942.

(2) It extends to the whole of British India, ³[and applies to members of the Civil Pioneer Force in any part of India].

(3) It shall come into force at once.

¹Applied to Br. Baluchistan, see Notfn. No. 39-W., dated the 21st April 1942, Gazette of India, 1942, Pt. I, p. 741.

²Subst., Civil Pioneer Force (Amdt.) Ordinance, 1942 (65 of 1942).

³Added, *ibid.*

2. *Definitions.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

¹[(a) “Commanding Officer” means the commissioned officer appointed to command a unit of the Civil Pioneer Force, or, in the absence from duty of such officer, the senior commissioned officer of the unit present with the unit ;

(b) “detachment” means any portion of a unit of the Civil Pioneer Force serving away from the headquarters of the unit ;]

²[(c)] “prescribed” means prescribed by rules made under this Ordinance ;

²[(d)] “service in a war area” means service in an area in which for the time being enemy action is taking place, or in an area declared by the Central Government to be a war area for the purposes of this Ordinance ;

²[(e)] “superior officer” means, in relation to any enrolled person not himself an officer, any officer mentioned in sub-section (1) of section 5 and, in relation to an enrolled person who is himself an officer, an officer of a class mentioned in sub-section (1) of section 5 before the class to which he himself belongs, or an officer of the same class as but of a grade higher than himself.

3. *Constitution of the Civil Pioneer Force.*—(1) There shall be raised and maintained in the manner hereinafter provided a force to be designated the Civil Pioneer Force to perform in ³[India] the duties hereinafter specified.

³[(2) The Central Government may constitute for any Province, or for service in any part of India, one or more units of the Civil Pioneer Force and may disband or reconstitute any unit so constituted.]

⁴[(3) The strength and composition of a unit shall be such as may be prescribed.]

4. *Duties of Civil Pioneer Force.*—(1) It shall be the duty of the Civil Pioneer Force and of the persons enrolled therein, as and when required by the Central or a Provincial Government or by an authority authorised in this behalf by the Central or a Provincial Government, for the purpose of securing the defence of British India, the public safety, the maintenance of public order or the efficient prosecution of war, or for maintaining supplies and services essential to the life of the community,—

(a) to carry out the construction or demolition of buildings, the clearing of debris, the salvage of property and the rescue of human beings ;

(b) to carry out constructional work on roads, buildings, docks and aerodromes ;

(c) to load or unload transport vehicles and vessels ;

(d) to perform work in factories, workshops and shipyards ;

(e) to render such other services as, in the opinion of the Central or a Provincial Government, are necessary or expedient for the purpose aforesaid :

Provided that the Central Government may, subject to such conditions as may be prescribed, levy a charge for any work carried out by the Civil Pioneer Force for or on behalf of a Provincial Government, local authority or industrial or commercial undertaking.

(2) A unit of the Civil Pioneer Force shall be liable to service in any part of the Province for which it has been constituted under section 3, and shall be liable, if the Central Government so orders, to service outside that Province in any part of [India]³.

¹Ins., Civil Pioneer Force (Third Amdt.) Ordinance, 1943 (38 of 1943).

²Re-lettered, *ibid*.

³Subst., Civil Pioneer Force (Amdt.) Ordinance, 1942 (65 of 1942).

⁴Added, Civil Pioneer Force (Third Amdt.) Ordinance, 1943 (38 of 1943).

5. *Officers of Civil Pioneer Force.*—(1) There shall be the following classes of officers in the Civil Pioneer Force, namely :—

¹[(i) commissioned officers—

- (a) Controllers,
- (b) Commandants Grade I,
- (c) Commandants,
- (d) Captains,
- (e) Lieutenants,
- (f) Second Lieutenants :

Provided that no Controller or Commandant Grade I shall be appointed for the unit or units constituted for any Province unless the Central Government has, by notification in the official Gazette, directed that such appointment shall be made.] ;

(ii) administrative officers ;

(iii) non-commissioned officers—

- (a) Havildars,
- (b) Naiks,

and such grades in either class of non-commissioned officers as the Central Government may direct.

(2) Commissioned and administrative officers shall be deemed to be enrolled in the Civil Pioneer Force for so long as they remain officers in that Force.

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6. *Appointment of officers.*—(1) Commissioned officers shall be chosen by the Central Government or by the Provincial Government subject to approval by the Central Government, and the Central Government shall issue to each such officer a commission of appointment.

(2) Administrative officers shall be appointed by the Provincial Government by notification in the official Gazette.

(3) Non-commissioned officers shall ³[subject to the prescribed conditions], be appointed from persons enrolled in the unit by the ⁴[Commanding Officer] of the unit or by such other authority and in such manner as may be prescribed.

³[6A. *Appointment of Commanding Officers and officers in superior command.*—(1) The Provincial Government shall appoint substantively a commissioned officer of the prescribed rank to command each unit of the Civil Pioneer Force constituted for the Province :

Provided that if an officer of the prescribed rank is not readily available, the Provincial Government may appoint temporarily any commissioned officer not below the rank of Captain as the Commanding Officer of the unit.

(2) Subject to any rules made in this behalf, the Central Government, or, in respect of units of the Civil Pioneer Force constituted for a Province the Provincial Government, may appoint any commissioned officer to exercise command over a number of units or detachments of units, and such officer shall be deemed to be in superior command of all the units or detachments placed under him, and the Commanding Officers thereof shall be subject to his control and orders in all matters respecting their units.

¹Subst., Civil Pioneer Force (Amdt.) Ordinance, 1943 (23 of 1943).

²Sub-section (3) omitted, Civil Pioneer Force (Third Amdt.) Ordinance, 1943 (38 of 1943).

³Ins., *ibid.*

⁴Subst., *ibid.*

(3) The Provincial Government may, with the previous approval of the Central Government, delegate to a Controller any of the powers vested in the Provincial Government except the power in respect of commissioned officers to order discharge, dismissal, reduction in rank or grade or forfeiture of service.]

7. Enrolment and appointment to units.—(1) Any British subject or any subject of an Indian State may, if he has attained the age of eighteen and is not a member of His Majesty's Naval, Military or Air Forces, offer himself for enrolment in the Civil Pioneer Force, and, if he satisfies the prescribed conditions, may be enrolled therein in the prescribed manner for such period as may be prescribed, and shall thereupon become subject to the provisions of this Ordinance.

(2) Subject to the prescribed conditions, an applicant for enrolment may apply to be enrolled for service in a particular unit.

(3) Any person enrolled shall without unnecessary delay be appointed in the prescribed manner to a unit constituted under section 3 for the Province in which he for the time being resides, or if he applies for enrolment in a particular unit to that unit, or if he is a subject of an Indian State to the unit or a unit to which subjects of that State are by the orders of the Central Government to be appointed.

8. Transfers.—Any person appointed to a unit under section 7 may be transferred whether on disbandment of the unit or otherwise to another unit in such manner as may be prescribed :

¹[Provided that an enrolled person shall not without his own consent be transferred to a unit constituted for a Province other than that in which he was enrolled.]

9. Liability to service.—Every person enrolled shall be bound to serve in the unit of the Civil Pioneer Force to which he has been appointed or transferred or is for the time being attached until he is discharged from the Civil Pioneer Force.

10. Discharge and dismissal.—(1) Every person enrolled shall be entitled to receive his discharge from the Civil Pioneer Force on the expiration of the period for which he was enrolled or on his attaining the age of fifty ; but any such person may before he becomes so entitled be discharged by such authority and subject to such conditions as may be prescribed.

(2) The prescribed authority may, subject to such conditions as may be prescribed, dismiss any enrolled person from the Civil Pioneer Force.

11. Major offences.—Any person enrolled who—

(a) begins, excites, causes or conspires with any other person to cause, or joins in any mutiny, or

(b) being present at any mutiny, does not use his utmost endeavour to suppress it, or

(c) knowing or having reason to believe in the existence of any mutiny or of any intention to mutiny, does not without delay give information thereof to his commandant or other superior officer, or

(d) uses criminal force to, or commits an assault on, his superior officer, whether on or off duty, knowing or having reason to believe him to be such, or

(e) while on service in a war area,—

(i) disobeys the lawful command of his superior officer, or

(ii) deserts or attempts to desert the service or his party, or his post or his duty, or

¹Subst., Civil Pioneer Force (Third Amdt.) Ordinance, 1943 (38 of 1943).

(iii) leaves his post or party or his duty to go in search of plunder,
or

(iv) intentionally causes or spreads a false alarm,

shall be punishable with imprisonment for a term which may extend to fourteen years, or with fine which may extend to five hundred rupees, or with both such imprisonment and fine.

12. Minor offences.—Any person enrolled who—

(a) is in a state of intoxication when on or detailed for duty, or

(b) leaves his post or duty without being regularly relieved or without permission, or, being under arrest or in confinement, leaves his arrest or confinement before he is set at liberty by proper authority, or

(c) is grossly insubordinate or insolent to his superior officer in the execution of his office, or

(d) refuses or wilfully neglects to perform or assist in any work or duty ordered to be done either in quarters or elsewhere, or

(e) while in charge of a party, permits behaviour prejudicial to good order and discipline, or

(f) uses criminal force to, or commits an assault on, or otherwise ill uses, any member of the Civil Pioneer Force subordinate to him in rank or position, or

(g) plunders, destroys or damages property of any kind, or

(h) designedly or through neglect injures or loses, or fraudulently or without due authority disposes of, his clothes, tools or equipment or any such articles entrusted to him or belonging to any other enrolled person,
or

(i) malingers, feigns or produces disease or infirmity in himself, or intentionally delays his cure or aggravates his disease or infirmity, or

(j) with intent to render himself or any other person unfit for service, voluntarily causes hurt to himself or that other person, or

(k) while not on service in a war area,—

(i) disobeys the lawful command of his superior officer, or

(ii) deserts or attempts to desert the service or his party or his post or his duty, or

(l) is guilty of any act or omission not otherwise punishable which is prejudicial to good order and discipline,

shall, unless the offence is dealt with under section 14, 15, or 16, be punishable with imprisonment for a term which may extend to one year, or with fine which may extend to two hundred rupees, or with both.

13. Attempts to commit offences and abetments of offences.—Any enrolled person who attempts to commit or abets the commission of an offence made punishable by this Ordinance shall be punishable with the punishment provided for such offence.

¹[**14. Non-judicial disposal of offences of enrolled persons other than officers.**—(1) When an enrolled person other than a commissioned, administrative or non-commissioned officer is charged with an offence punishable under sub-clause (i) or (ii) of clause (e) of section 11, or under section 12, or under section 13 read with sub-clause (i) or (ii) of clause (e) of section 11 or with section 12, the Commanding Officer, subject to any rules made in this behalf,

¹Subst., Civil Pioneer Force (Third Amdt.) Ordinance, 1943 (38 of 1943).

may dispose of the charge without formal trial, and may award one or more of the following punishments, namely :—

(a) confinement in such place as may be considered suitable for a period not exceeding seven days ;

(b) punishment drill, extra work, fatigue or other duty, not exceeding thirty days in duration, with or without confinement to quarters or lines ;

(c) forfeiture of pay and allowances for a period not exceeding one month.

(2) Any commissioned officer if so authorised by the Central Government, and the commissioned or administrative officer commanding a detachment if so authorised in writing by his Commanding Officer, may, without formal trial, dispose of a charge of an offence punishable under section 12 or under section 13 read with section 12 against any enrolled person other than an officer, and, subject to any rules made in this behalf, may award to such person any one or more of the punishments specified in clauses (a) to (c) of sub-section (1).]

¹[15. *Non-judicial disposal of minor offences of non-commissioned officers.*—

(1) When a non-commissioned officer is charged with an offence punishable under section 12 or under section 13 read with section 12, the Commanding Officer may dispose of the case without formal trial, and, subject to any rules made in this behalf, may award to such non-commissioned officer any one or more of the following punishments, namely :—

(a) reduction to a lower grade or a lower class or to the ranks ;

(b) forfeiture of pay and allowances for a period not exceeding one month ;

(c) reprimand or severe reprimand.

(2) Any commissioned officer if so authorised by the Central Government, and the commissioned officer commanding a detachment if so authorised in writing by his Commanding Officer, may, without formal trial, dispose of a charge of an offence punishable under section 12 or under section 13 read with section 12 against a non-commissioned officer, and may award such person one or both of the following punishments, namely :—

(a) forfeiture, of pay and allowances for a period not exceeding seven days ;

(b) reprimand or severe reprimand].

16. *Non-judicial disposal of minor offences of commissioned and administrative officers.*—When a commissioned or an administrative officer is charged with an offence punishable under section 12, ²[or under section 13 read with section 12], ¹[the Commanding Officer subject to any rules made in this behalf, may], without formal trial, reprimand or severely reprimand such officer or may refer the matter to the Provincial Government for orders.

²[16A. *Reduction in rank of inefficiency or lack of zeal.*—Subject to any rules made in this behalf, the Commanding Officer may reduce to a lower grade or a lower class or to the ranks any non-commissioned officer in his unit on the ground of inefficiency or lack of zeal].

17. *Trial of minor offences.*—(1) An offence punishable under section 12 ²[or under section 13 read with section 12], may, if the charge is not disposed of under section 14, 15 or 16, be tried by a summary Court constituted as provided in sub-section (2).

³[*Explanation.*—For the purposes of this sub-section the expression ' offence ' includes an offence committed outside British India].

¹Subst., Civil Pioneer Force (Third Amdt.) Ordinance, 1943 (38 of 1943).

²Ins., *ibid.*

³Added, Civil Pioneer Force (Amdt.) Ordinance, 1942 (65 of 1942).

(2) A summary Court shall consist of a Magistrate of the first class appointed by the District Magistrate or in a Presidency-town by the Chief Presidency Magistrate, sitting with the ¹[Commanding Officer] or a commissioned officer of the Civil Pioneer Force nominated by him and a third person to be selected by the Provincial Government in the prescribed manner. The Magistrate so appointed shall be president of the Court and, in the event of any difference of opinion, the opinion of the majority shall prevail.

(3) A summary Court may take cognizance of an offence upon a report in writing made by a commissioned officer of the Civil Pioneer Force, and such officer shall in making such complaint be deemed to be a public servant acting in the discharge of his official duties.

(4) A summary Court shall in the trial of an offence follow as far as possible the procedure for the trial of summary cases in which an appeal lies laid down in Chapter XXII of the Code of Criminal Procedure, 1898, (V. of 1898).

(5) A summary Court may pass any sentence authorised by section 12 for the offence.

(6) An appeal from a sentence passed by a summary Court may be made at any time within thirty days of the sentence to the prescribed authority and such authority shall in disposing of such appeal follow the same procedure and have the same powers as an appellate Court follows and has under [the Code of Criminal Procedure 1898]², [V of 1898].

(7) The provisions of the Code of Criminal Procedure, 1898, (V of 1898), and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Ordinance, shall apply to all matters connected with, arising from or consequent upon a trial by a summary Court.

18. *Power of Commanding Officer to make deductions from pay.*—The following deductions may, subject to the prescribed conditions, be made by the ¹[Commanding Officer], from the pay and allowances of any enrolled person, namely :—

(a) all pay and allowances for every day on which the enrolled person is absent either on desertion or without leave or because of imprisonment awarded by a Court ;

(b) all pay and allowances for every day on which the enrolled person is in custody on a charge for an offence of which he is afterwards convicted by a Court, or on a charge of absence without leave for which he is afterwards awarded punishment under section 14, 15 or 16 ;

(c) all pay and allowances for every day on which the enrolled person is in hospital on account of sickness certified by the medical officer attending him to have been caused by an offence punishable under this Ordinance committed by him, ³[or, subject to any rules made in this behalf, for any day on which he is in hospital on account of venereal disease] ;

⁴[(d) all pay and allowances ordered to be forfeited under section 14 or section 15 ;

(e) any deduction from pay ordered under clause (b) of section 19] ;

⁵[(f)] any sum required to defray any expenditure incurred as a consequence of misconduct by him or to make good any loss of, or damage or destruction done by him to, any clothes, tools or equipment or to any buildings or property :

¹Subs., Civil Pioneer Force (Third Amdt.) Ordinance, 1943 (38 of 1943).

²Subst., Civil Pioneer Force (Amdt.) Ordinance, 1943 (7 of 1943).

³Added, Civil Pioneer Force (Third Amdt.) Ordinance, 1943 (38 of 1943).

⁴Ins., *ibid.*

⁵Re-lettered, *ibid.*

Provided that the total deductions from the pay and allowances of any enrolled person ¹[made under clauses (d) to (f) both inclusive], shall not exceed in any one month one-half of his pay and allowances for that month.

19. Power of Provincial Government to award punishments.—The following punishments may, subject to the prescribed conditions, be awarded to a commissioned or an administrative officer by the Provincial Government, namely :—

(a) reprimand or severe reprimand ;

(b) deductions from pay to defray expenditure or recoup loss incurred as a consequence of misconduct by him ;

(c) forfeiture of service ;

and the Provincial Government may, subject to the prescribed conditions, reduce a commissioned officer from one class of commissioned rank to a lower class.

20. Custody during investigation.—Any enrolled person charged with an offence punishable under this Ordinance may be taken into and kept in custody in the prescribed manner by the unit to which he belongs pending investigation of the offence.

21. Arrest of deserters.—(1) Whenever any enrolled person deserts his unit, the ²[Commanding Officer], or the officer commanding the detachment to which he belongs may give written information of the desertion to the officer in charge of the nearest police station, and such police officer shall thereupon take steps for the apprehension of the deserter in like manner as if he were a person for whose apprehension a warrant had been issued by a Magistrate, and shall deliver the deserter when apprehended to the custody of his unit.

(2) Any police officer may arrest without warrant any person reasonably believed by him to be an enrolled person who has deserted his unit, and shall on making an arrest bring or send the arrested person without delay to the unit to which he belongs.

22. Place of trial.—Any enrolled person charged with an offence punishable under this Ordinance may be tried and punished for such offence in any place in British India.

23. Proof of enrolment.—In any proceedings before a Court the fact that a person is a person enrolled under this Ordinance may be proved by the production of a certificate purporting to be signed by the ²[Commanding Officer] of the unit in which he is enrolled that he is so enrolled.

24. Power of Central Government to exercise powers of Provincial Government.—The Central Government may exercise any power vested by this Ordinance in the Provincial Government.

25. Power to make regulations.—(1) The Central Government may make regulations providing for all details connected with the organization of the Civil Pioneer Force and the units thereof.

(2) In particular and without prejudice to the generality of the foregoing power, regulations may be made providing for the duties, training, clothing, equipment and the conditions of service of persons enrolled, and for the payment of compensation to or in respect of persons enrolled for injuries received or fatalities incurred by them.

26. Power to make rules.—(1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

¹Ins., Civil Pioneer Force (Third Amdt.) Ordinance, 1943 (38 of 1943).

²Subst., *ibid.*

(2) In particular and without prejudice to the generality of the foregoing power, rules may be made under this section—

(a) providing for any matter for which regulations under section 25 may be made or any matter ancillary to such matter ;

(b) providing for any matter which is to be or may be prescribed under this Ordinance ;

(c) providing for the medical examination of persons offering themselves for enrolment under section 7.

THE WAR RISKS (FACTORIES) INSURANCE ORDINANCE, 1942.

Ordinance No. XII of 1942.

An Ordinance to provide for the insurance of certain property ¹***against war risks.

(Published in the Gazette of India, Extraordinary, dated the 8th April, 1942.)

WHEREAS an emergency has arisen which makes it necessary to provide for the insurance of certain property * * * ¹ against war risks ;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the War Risks (Factories) Insurance Ordinance, 1942.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Definitions.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “ buildings ” includes foundations, plinths, floors, staircases, tanks, engine and boiler beds, chimneys and flues ²[and boundary walls] ;

(b) “ factory ” means a factory as defined in clause (j) of section 2 of the Factories Act, 1934 (XXV of 1934), and includes any premises including the precincts thereof which, having at any time after the 31st day of December, 1938, been a factory as defined in clause (j) of section 2 of the said Act, have not been exempted under section 14 from the provisions of section 5 of this Ordinance ;

(c) “ factory buildings ” includes all buildings comprised in the factory, and such other buildings (including residential buildings for staff and workmen, hospitals and welfare centres) within a radius of two miles from the main factory building as are in the same ownership or occupation as the factory and are used for the purposes of the factory ;

(d) “ the Fund ” means the War Risks (Factories) Insurance Fund constituted under section 7 ;

(e) “ insurable value ” of property means the value of the property as ascertained for the purposes of insurance under this Ordinance ;

(f) “ occupier ” of a factory has the meaning assigned to the word in clause (l) of section 2 of the Factories Act, 1934 (XXV of 1934) ;

(g) “ owner ” of a factory includes, when parts of the property insurable under this Ordinance in relation to the factory are owned by different persons, each such person in respect of the part owned by him ;

(h) “ prescribed ” means prescribed by rules made under this Ordinance ;

¹Words omitted, War Risks (Factories) Insurance (Amdt.) Ordinance, 1942 (32 of 1942).

²Added, War Risks (Factories) Insurance (Amdt.) Ordinance, 1943 (9 of 1943).

¹[(i) "property insurable under this Ordinance" means, in relation to any factory, the factory buildings and, except where they are for the time being goods insurable under the War Risks (Goods) Insurance Ordinance, 1940, all plant and machinery in the factory, all materials in the factory for use in the production or transmission of motive power, or in the maintenance of plant and machinery or in the construction or reconstruction or maintenance of factory, buildings, and such other plant, machinery or materials as may be prescribed ;]

²[(ii) "quarter" means a period of three months commencing on the first day of March, June, September or December ;]

(j) "the Scheme" means the War Risks (Factories) Insurance Scheme referred to in sub-section (1) of section 3 ;

(k) "war risks" means such risks arising from—

(i) action taken by an enemy or action taken in combating an enemy or in repelling an imagined attack by an enemy,

(ii) measures taken under proper authority to avoid the spreading of, or otherwise to mitigate, the consequences of damage occurring (whether accidentally or not) as the direct result of any such action as aforesaid,

(iii) precautionary or preparatory measures taken under proper authority with a view to preventing or hindering the carrying out of any attack by an enemy, being measures involving risk to property,

(iv) precautionary or preparatory measures involving the doing of work on land and taken under proper authority in any way in anticipation of enemy action being measures involving risk to property,

(v) precautionary or preparatory measures taken under proper authority with a view to denying facilities to an enemy, being measures involving damage to or diminution of the value of property, as may be prescribed.

3. War Risks (Factories) Insurance Scheme.—(1) The Central Government may, by notification in the official Gazette, put into operation³ a scheme to be called the War Risks (Factories) Insurance Scheme, whereby the Central Government undertakes in relation to factories the liabilities of insuring against war risks, to the extent provided by and subject to the provisions of this Ordinance, property insurable under this Ordinance which appertains to a factory.

(2) The Scheme may be such as to provide for the undertaking by the Central Government of its liabilities under the Scheme as from a date anterior to the inauguration of the Scheme, or to the commencement of this Ordinance.

(3) The Scheme may extend to the undertaking by the Central Government in relation to any person * * * of the liability of insuring such person against war risks in respect of any property insurable under this Ordinance which is not owned by him but in which he has an interest, up to the extent of such interest.

(4) The Scheme shall be such as to secure—

(a) that the liability of the Central Government as insurers shall not extend to more than eighty per cent. of the insurable value of the property insurable,

¹Subst., War Risks (Factories) Insurance (Amdt.) Ordinance, 1943 (9 of 1943).

²Ins., War Risks (Factories) Insurance (Amdt.) Ordinance, 1942 (32 of 1942).

³Came into operation on 29th May 1942 : see Notfn. No. 3-W.R.I. (F)42, dated 2nd May, 1942 (G. of I., 1942, ex. p. 482), as amended by No. 10-W.R.I. (F)42, dated 13th May 1942 (G. of I., 1942, Ex. p. 501).

⁴Words omitted, War Risks (Factories) Insurance (Amdt.) Ordinance, 1942 (32 of 1942).

¹[(b) that in respect of each claim the insured shall bear twenty per cent. of the loss or damage, or such other amount as may be fixed, with reference to the insurable value of the property insurable, in accordance with the prescribed scale, whichever is the greater],

(c) that any liability of the Central Government as insurers under the Scheme is determined by a policy of insurance issued in the prescribed form and in respect of a prescribed period by a person acting on behalf of the Central Government,

(d) that any premium under a policy so issued is payable at such rate as may for the time being be prescribed.

(5) The Scheme may provide—

¹[(a) for undertaking in relation to works in course of construction which, when completed, will become factories, and such plant and machinery appertaining to such works as may be prescribed, the same liabilities as are undertaken by the Scheme in relation to factories] ;

(b) that the payments due under a policy of insurance issued under the Scheme may, at the option of the Central Government, take either of the following forms, namely :—

(i) payment, within the limits of the liability assumed by the Central Government and in such manner and by such instalments as the Central Government may think fit, of the cost necessary to restore the property as far as practicable to the condition in which it existed before the occurrence of the damage, or

(ii) compensation, within the aforesaid limits, for the loss in value, ascertained on the basis of values and prices ruling at the time at which the policy of insurance was taken out, or at which the loss occurred, whichever is less, suffered by the property as a result of the damage, after due allowance has been made for depreciation during the * * *² period of insurance cover ;

¹[(c) that payments due under a policy of insurance issued at any time on or after the 29th day of May, 1942, under the Scheme may be postponed to any time before the expiry of one year from the date of the termination of the present hostilities, or, subject to payment of interest at the rate of two per cent. per annum from the expiry of the said year to any later date] ;

(d) for making it an express or implied condition of any policy of insurance issued under the Scheme—

(i) that the owner or occupier of a factory shall comply with all regulations or instructions made or issued under the authority of Government for safeguarding the property against damage from war risks, or

(ii) that, where the Central Government exercises its option to pay the cost necessary to restore the property to its original condition, the owner of the factory shall, if so required by the Central Government, reconstruct the factory or remove the factory to and reconstruct it in another locality.

(6) Different rates of premium may be prescribed under sub-section (4) for the purpose of differentiating from other factories and other property insurable under this Ordinance—

(a) ³[premises becoming factories] after the inauguration of the Scheme,

(b) property insurable under this Ordinance which consists of additions made after the inauguration of the Scheme to the property insurable under this Ordinance appertaining to a factory,

¹Subst., War Risks (Factories) Insurance (Amdt.) Ordinance, 1943 (9 of 1943).

²Word omitted, War Risks (Factories) Insurance (Amdt.) Ordinance, 1942 (32 of 1942).

³Subst., *ibid.*

(c) property insurable under this Ordinance which consists of restorations or reconstructions of property insurable under this Ordinance which has after the inauguration of the Scheme suffered damage or destruction arising from a war risk.

¹[(d) works in course of construction (whether construction was begun before or after the inauguration of the Scheme) which, when completed, will become factories, and subsequent additions to such works.]

4. *Employment of agents by the Central Government.*—The Central Government may employ or authorize the employment of any person or firm to act as its agents for any of the purposes of this Ordinance, and may pay to persons or firms so employed such remuneration as the Central Government thinks fit :

Provided that no person or firm shall be so employed unless that person or firm is either—

(a) a member of an association prescribed in this behalf, or

(b) a person who in British India has a standing contract with underwriters who are members of the Society of Lloyd's whereby such person is authorized within the terms of such contract to issue protection notes, cover notes or other documents granting insurance against war risks.

5. *Compulsory insurance.*—(1) Every owner of a factory, except a factory belonging to the Crown or a factory exempted under section 14 from the provisions of this Ordinance, shall by such date² as may be specified in this behalf by the Central Government, by notification in the official Gazette ³[or, in respect of premises becoming a factory ⁴[or property becoming property insurable under this Ordinance] after that date or in a case to which sub-section (2) refers, before the commencement of the quarter next following that in which the premises become a factory ⁴[or the property becomes insurable under this Ordinance] or as the case may be, in which the reconstruction of the factory is completed, or before the expiry of seven days from the commencement of the War Risks (Factories) Insurance (Amendment) Ordinance, 1942, whichever is later,] take out a policy of insurance against war risks issued in accordance with the Scheme, whereby he is insured in respect of all property insurable under this Ordinance which appertains to the factory for a sum not less than the insurable value of such property :

Provided that, where the owner of the factory is not himself the occupier of the factory, the occupier of the factory shall, unless the owner has already taken out a policy of insurance as required by this sub-section, himself take out the policy, and in such a case the occupier shall be deemed to act as the agent of the owner and shall be entitled to receive from the owner all sums paid as premiums on the policy.

(2) The obligation imposed by sub-section (1) includes, when the owner of the factory is required by the Central Government to reconstruct a factory which has suffered damage, an obligation to take out an additional policy of insurance as required by the sub-section in respect of the reconstructed factory.

(3) When a factory in respect of which a policy of insurance against war risks has been taken out as required by this section is transferred from one owner to another or there is a change of occupier of the factory, the policy may

¹Added, War Risks (Factories) Insurance (Amdt.) Ordinance, 1943 (9 of 1943).

²The 29th May, 1942, see Notfn. No. 5-W.R.I. (F)42, dated the 2nd May, 1942, Gaz. of India, 1942, Extraordinary, p. 482, as amended by Notfn. No. 11-W.R.I. (F)42, dated the 13th May 1942, Gaz. of India, 1942, Extraordinary, p. 501.

³Ins., War Risks (Factories) Insurance (Amdt.) Ordinance, 1942 (32 of 1942).

⁴Ins., War Risks (Factories) Insurance (Amdt.) Ordinance, 1943 (9 of 1943).

be transferred to the new owner or occupier, and such new owner or occupier shall succeed to all rights and liabilities under and in relation to the policy as if the policy had been in the first instance taken out by him.

(4) Whoever contravenes the provisions of sub-section (1) or the proviso thereto, or, having taken out a policy of insurance as required by that sub-section, fails to pay any instalment of premium thereon which is subsequently due, shall be punishable with fine which may extend to two thousand rupees and with a further fine which may extend to one thousand rupees for every day after the first on which the contravention or failure continues ¹[and such punishment shall be without prejudice to any other penalty or liability incurred in consequence of such contravention or failure.]

¹[(5) Where any offence under sub-section (4) is tried by a Presidency-magistrate or a Magistrate of the first class, then, notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), the Magistrate trying the offence may pass any sentence authorised by that sub-section.]

6. *Restriction on carrying on certain insurance business.*—(1) After the date on which the Scheme is put into operation, no person shall, except as a person authorized by the Central Government as their agent to issue policies in pursuance of the Scheme, carry on the business of insuring factories in British India against war risks in respect of property insurable under this Ordinance.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to five thousand rupees and with a further fine which may extend to one thousand rupees for every day after the first on which the contravention continues.

7. *War Risks (Factories) Insurance Fund.*—(1) The Central Government shall establish a fund for the purposes of this Ordinance to be called the War Risks (Factories) Insurance Fund into which shall be paid all sums received by the Central Government by way of insurance premiums under the Scheme or by way of payments made on composition of offences under section 12, ²[or under any provision of law corresponding thereto in force in an Indian State, or in the French Establishments in India, or in the territories (hereinafter referred to as Administered Areas) set out in the Schedule] ³[or by way of expenses or compensation awarded by a Court, under section 545 of the Code of Criminal Procedure, 1898 (V of 1898), out of any fine imposed under this Ordinance] and out of which shall be paid all sums required for the discharge by the Central Government of any of its liabilities under the Scheme, or for payments by the Central Government under section 9, or for the payment by the Central Government of the remuneration and expenses of agents employed for the purposes of the Scheme.

(2) If at any time when a payment is to be made out of the Fund the sum standing to the credit of the Fund is less than the sum required for the making of that payment, an amount equal to the deficiency shall be paid into the Fund as an advance out of general revenues.

(3) If at any time the amount standing to the credit of the Fund exceeds the sum which, in the opinion of the Central Government, is likely to be required for the making of payments out of the Fund, the excess shall be paid into general revenues.

(4) The Central Government shall prepare in such form and manner as may be prescribed and shall publish either annually, or at such shorter intervals as may be prescribed, an account of all sums received into and paid out of the Fund.

¹Added, War Risks (Factories) Insurance (Amdt.) Ordinance, 1943 (9 of 1943).

²Ins., War Risks (Factories) Insurance (Amdt.) Ordinance, 1942 (32 of 1942).

³Ins., War Risks (Factories) Insurance (Amdt.) Ordinance, 1943 (9 of 1943).

8. *Power of Central Government to obtain information.*—¹[(1) Any person authorised in this behalf by the Central Government may, for the purpose of ascertaining whether or not the owner or occupier of any property required to be insured under this Ordinance has taken out a policy of insurance as required by this Ordinance in respect of such property, or for the purpose of investigating the insurable value of any property insured, or required to be insured, or proposed for insurance under this Ordinance, or for the purpose of estimating the damage suffered by any property insured under this Ordinance,—

(a) require the owner or occupier of the property, or any person carrying on in British India the business of fire insurance in respect of the property, to submit to him such accounts, books or other documents, or to furnish to him such information as he may reasonably think necessary, or

(b) at any reasonable time enter any premises comprising or containing the property, inspect such premises or property, and require any person found on such premises whom he believes to be in possession of information relevant to his investigation, to furnish to him such information as he may reasonably think necessary.]

(2) Whoever wilfully obstructs any person in the exercise of his powers under this section or fails without reasonable excuse to comply with any request made thereunder shall, in respect of each occasion on which any such obstruction or failure takes place, be punishable with fine which may extend to one thousand rupees.

(3) Whoever, in purporting to comply with his obligations under this section, knowingly or recklessly makes a statement false in a material particular, shall be punishable with fine which may extend to one thousand rupees.

9. *Payments towards cost of removal and reconstruction of factory.*—Where the Central Government requires the owner of a factory to remove the factory and to reconstruct it in another locality, the Central Government shall make to such owner out of the Fund such payments, in addition to any sum payable under the policy of insurance, as it considers sufficient to defray the cost of the removal and, if necessary, the replacement of any part of the property in respect of which no compensation is payable.

¹[10. *Recovery of premiums unpaid.*—(1) Without prejudice to the provisions of sub-section (4) of section 5, where any person has failed to insure as, or to the full amount required by this Ordinance, and has thereby evaded the payment by way of premium of any money which he would have had to pay but for such failure, an officer authorised in this behalf by the Central Government may determine the amount payment of which has been so evaded and the amount so determined shall be payable by such person and shall be recoverable from him as provided in sub-section (2).

(2) Any instalment of premium due on a policy of insurance issued under the Scheme, and any amount determined as payable under sub-section (1) shall be recoverable as an arrear of land-revenue and shall be a first charge on the property in respect of which the default was made.

(3) A person against whom a determination is made under sub-section (1) may, within the prescribed period, appeal against such determination to the Central Government whose decision shall be final.]

11. *Limitation of prosecutions.*—No prosecution for any offence punishable under this Ordinance shall be instituted against any person except by or with the consent of the Central Government or an authority authorized in this behalf by the Central Government.

¹Subst.. War Risks (Factories) Insurance (Amdt.) Ordinance, 1943 (9 of 1943).

12. *Composition of offences.*—Any offence punishable under sub-section (4) of section 5 may, either before or after the institution of the prosecution, be compounded by the Central Government, or by any authority authorized in this behalf by the Central Government, on payment for credit to the Fund of such sum as the Central Government or such authority, as the case may be, thinks fit.

13. ¹[(1)] *Bar of legal proceedings.*—No suit, prosecution or other legal proceedings shall lie against any person for anything which is in good faith done or intended to be done under this Ordinance.

²[(2)] On and after the 29th day of May, 1942, no suit shall be maintainable in any civil court against the Central Government, or a person acting as its agent under section 4, for the refund of any money paid or purporting to have been paid as premium on a policy of insurance taken out or purporting to have been taken out under this Ordinance.]

14. ¹[(1)] *Power to exempt factories.*—The Central Government may, by notification in the official Gazette, exempt any factory or any description of factories or any premises including the precincts thereof which have at any time after the 31st day of December, 1938, been a factory as defined in clause (j) of section 2 of the Factories Act, 1934 (XXV of 1934). ³[from the provisions of this Ordinance requiring such factories or premises to be insured or to continue to be insured under this Ordinance ; but such exemption shall not prejudice the infliction of any penalty or the accrual of any liability incurred before the date on which the exemption takes effect.]

²[(2)] In granting any exemption under this section the Central Government may direct that the exemption shall take effect or be deemed to have taken effect on a specified date after or before the date of the notification.]

15. *Power to make rules.*—(1) The Central Government may, by notification in the official Gazette, make rules to carry into effect the provisions of this Ordinance.

(2) Without prejudice to the generality of the foregoing power, such rules may—

(a) prescribe the method of ascertaining the value of property for the purposes of insurance under this Ordinance ;

(b) prescribe the plant ⁴[machinery and materials] other than plant ⁴[machinery and materials] in the factory which shall be ³[property] insurable under this ⁵[Ordinance] ;

(c) prescribe the risks which shall be deemed to be war risks for the purposes of clause (k) of section 2 ;

(d) prescribe the forms of the policies of insurance referred to in clause (c) of sub-section (4) of section 3 and the period in respect of which such policies shall be issued ;

(e) prescribe the associations referred to in clause (a) of the proviso to section 4 ;

(f) prescribe the form of and the manner of preparing the account referred to in sub-section (4) of section 7.

²[(g) prescribe the procedure in making determinations and in presenting appeals from determinations made under section 10.]

¹Renumbered, War Risks (Factories) Insurance (Amdt.) Ordinance, 1943 (9 of 1943).

²Added, *ibid.*

³Subst., *ibid.*

⁴Subst., War Risks (Inland Vessels) Insurance Ordinance, 1943 (25 of 1943).

⁵Subst., War Risks (Factories) Insurance (Amdt.) Ordinance, 1942 (32 of 1942).

16. *Power of Central Government to extend Ordinance and Scheme to certain insurance projects.*—(1) The Central Government may, ¹[by order] declare that the provisions of this Ordinance and of the Scheme made thereunder shall apply to the insuring against war risks of—

²[(a) the plant and machinery, whether above or below ground, appertaining to mines as defined in the Indian Mines Act, 1923 (IV of 1923), buildings appertaining to mines and within a radius of two miles from the mine excavation and, in relation to such plant, machinery and buildings, such materials above ground as would if the mine were a factory, be included in the term “property insurable under this Ordinance,”]

¹[(b) the whole or a specified part of the distribution systems of gas supply undertakings generally, or of specified gas supply undertakings.]

(c) the whole or a specified part of the distribution and transmission systems, sub-stations, switch houses and transformer houses of electric supply undertakings generally, or of specified electric supply undertakings,

³[(d) the whole or a specified part of the sluice houses, valve houses, water-pipe lines, penstocks and any other plant and machinery pertaining to the intake of hydraulic power of hydro-electric supply undertakings generally, or of specified hydro-electric supply undertakings,]

as they apply to property insurable under this Ordinance which appertains to a factory.

(2) In interpreting this Ordinance as applied by a notification under clause (a) of sub-section (1) to mines, references to the owner of a factory shall be read as references to the owner or agent of a mine as defined in the Indian Mines Act, 1923 (IV of 1923), and references to the occupier of a factory shall be read as references ²[to the agent of a mine as defined in that Act ; and in interpreting this Ordinance as applied by notification ⁴[or order] under any of the clauses of sub-section (1) “property insurable under this Ordinance” shall be interpreted as meaning all property to which the Scheme is by the said notification ⁴[or order] declared to apply.]

⁵[17. *Application of the scheme to property in certain territories outside British India.*—(1) If the Central Government is satisfied that by the law of an Indian State or of the French Establishments in India or of the Administered Areas provision has been made substantially corresponding to the provision made by this Ordinance requiring the owners or occupiers of factories in that State or those Establishments or the Administered Areas, as the case may be, to take out policies of insurance against war risks, the Central Government may, by notification in the official Gazette, declare that this section shall apply to the territory of that State or of those Establishments or comprising the Administered Areas.

(2) On the application of this section to any territory, the Scheme made under this Ordinance shall extend to the undertaking by the Central Government in respect of persons and property in such territory of the same liabilities, in the same manner, to the same extent and subject to the same conditions, as if the persons and property concerned were in British India.

¹Subst., War Risks (Factories) Insurance (Second Amdt.) Ordinance, 1942 (40 of 1942).

²Subst., War Risks (Factories) Insurance (Amdt.) Ordinance, 1943 (9 of 1943).

³Ins., War Risks (Factories) Insurance (Amdt.) Ordinance, 1942 (32 of 1942).

⁴Ins., War Risks (Inland Vessels) Insurance Ordinance, 1943 (25 of 1943).

⁵Added, War Risks (Factories) Insurance (Amdt.) Ordinance, 1942 (32 of 1942).

(3) On the application of this section to any territory, the provisions of section 6 shall be deemed to prohibit any person, except as a person authorised by the Central Government as their agent to issue policies in pursuance of the Scheme, from carrying on after the date of the notification by which this section is applied the business of insuring factories in that territory against war risks in respect of property insurable under this Ordinance.

(4) The references to factories in this section shall be construed as references to premises, which, if they were situated in British India, would be factories as defined in this Ordinance.]

¹[18. *Refund of insurance premiums.*—The Central Government may, in any case in which it thinks fit, allow a refund to be made of any sum paid by way of premium on a policy of insurance issued or purporting to have been issued under this Ordinance.]

²[THE SCHEDULE.

(See section 7.)

1. The Cantonment of Baroda.
2. The administered areas in the Western India States Agency specified in the Western India States Administered Areas (Application of Laws) Order, 1937.
3. The administered areas in the Central India Agency specified in the Central India Administered Areas (Application of Laws) Order, 1937.
4. The Gwalior Residency Area.
5. The District of Abu.
6. The administered areas in the Hyderabad State specified in the Hyderabad Administered Areas (Application of Laws) Order, 1937.
7. The Civil and Military Station of Bangalore.
8. The Kolhapur Residency Area and the Wadi Jaghir.
9. The railway lands in the Western India States Agency specified in the notifications of the Political Department, Nos. 189-I.B. and 190-I.B., dated the 8th September 1937.
10. The Rajputana and Central India railway lands specified in the Rajputana and Central India Railway Lands (Application of Laws) Order, 1937.
11. The Punjab States railway lands specified in the Punjab States Railway Lands (Application of Laws) Order, 1939.
12. The Thana Circles in the Rewa Kantha Agency in the Gujarat States Agency and the Dangs.
13. The British Reserve in Manipur.
- ³[14. The Shillong Administered Areas.]

THE WOMEN'S AUXILIARY CORPS ORDINANCE, 1942.

Ordinance No. XIII of 1942.

An Ordinance to constitute a women's auxiliary corps for service in India as [a part of the Armed Forces of the Crown.]

(Published in the Gazette of India Extraordinary, dated the 9th April, 1942.)

WHEREAS an emergency has arisen which makes it necessary to constitute a women's auxiliary corps for service in India as ⁴[a part of the Armed Forces of the Crown], and to provide for the organization and discipline thereof ;

¹Added, War Risks (Factories) Insurance (Amdt.) Ordinance, 1943 (9 of 1943).

²Added, War Risks (Factories) Insurance (Amdt.) Ordinance, 1942 (32 of 1942).

³Added, War Risks (Inland Vessels) Insurance Ordinance, 1943 (25 of 1943).

⁴Subst., Women's Auxiliary Corps (Amdt.) Ordinance, 1942 (37 of 1942).

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and application.*—(1) This Ordinance may be called the Women's Auxiliary Corps Ordinance, 1942.

(2) It * * * * applies to British subjects in any part of India, and to members of the Women's Auxiliary Corps, India, wherever they may be.

2. *Definitions.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “ the Corps ” means the Women's Auxiliary Corps, India, constituted under section 3 ;

(b) “ enrolled ” means enrolled under this Ordinance ;

(c) “ prescribed ” means prescribed by rules made under this Ordinance ;

(d) “ regulations ” means regulations made under section 11.

3. *Constitution of Women's Auxiliary Corps.*—There shall be raised and maintained in the manner hereinafter provided an auxiliary force ²[(which shall be designed the Women's Auxiliary Corps, India), for service in India as a part of the Armed Forces of the Crown].

4. *Enrolment.*—Any British subject or any subject of an Indian State, if a woman and above the age of ³[seventeen], shall be eligible to be enrolled in the Corps, and, if she satisfies the prescribed conditions, may be enrolled therein in such manner and for such period as may be laid down by regulations, and thereupon shall become subject to the provisions of this Ordinance.

5. *Personnel of the Corps and appointment of officers.*—(1) There shall be the following classes of personnel in the Corps, namely :—

(a) officers, and

(b) enrolled persons.

(2) Officers shall be appointed by the Central Government, by notification in the official Gazette.

(3) Enrolled persons may be promoted to warrant and non-commissioned rank in accordance with the regulations.

6. *Liability to serve.*—Every enrolled person shall be bound to serve until she is discharged from the Corps, and shall be subject to all rules and regulations that may be made under this Ordinance relating to the Corps.

7. *Dismissal from Corps.*—The Commander-in-Chief of His Majesty's Forces in India or any authority empowered by him in this behalf may dismiss any enrolled person from the Corps.

8. *Liability to undergo training and perform duties.*—Every enrolled person shall be bound to undergo such training and in such manner and shall be bound to perform such duties in connection with His Majesty's Military Forces in India as may be laid down by regulations.

9. *Application of Army Act.*—The Army Act shall, to such extent and subject to such adaptations and modifications as may be prescribed, apply to officers of, and other persons enrolled in, the Corps as they apply to officers of the regular forces and men of the regular forces, respectively.

¹Words omitted, Women's Auxiliary Corps (Amdt.) Ordinance, 1942¹ (37 of 1942).

²Subst., *ibid.*

³Subst., Women's Auxiliary Corps (Second Amdt.) Ordinance, 1942 (55 of 1942).

10. *Power to make rules.*—(1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, rules may be made under this section—

(a) for the medical examination of persons offering themselves for enrolment under section 4 ;

1* * * * ;

(c) providing for any other matter which under this Ordinance is to be or may be prescribed.

11. *Power to make Regulations.*—The Commander-in-Chief of His Majesty's Forces in India may make regulations consistent with this Ordinance and the rules made thereunder providing for all matters to be laid down by regulations, and generally for all details connected with the organization and personnel of the Corps, and for the enrolment, discharge, duties, training, clothing, equipment ²[pay,] allowances and leave of persons enrolled.

THE REGISTRATION OF FOREIGNERS ACT (EXTENDING) ORDINANCE No. XVI OF 1942.

Ordinance No. XVI of 1942.³

An Ordinance to apply the Registration of Foreigners Act, 1939, to certain persons to whom that Act does not at present apply.

(Published in the Gazette of India Extraordinary, dated the 21st April, 1942.)

WHEREAS an emergency has arisen which makes it necessary to apply the Registration of Foreigners Act, 1939 (XVI of 1939), to certain persons to whom that Act does not at present apply ;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Registration of Foreigners Act (Extending) Ordinance, 1942.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Application of Act XVI of 1939 to certain persons.*—The provisions of the Registration of Foreigners Act, 1939 (XVI of 1939), and of the rules and orders made thereunder shall apply to and in relation to any person who was at birth a subject of any State in Europe excluding His Majesty's dominions in Europe, or a Japanese, Chinese or Thai subject, as they apply to and in relation to foreigners as defined for the purposes of that Act.

¹Cl. (b) omitted Women's Auxiliary Corps (Amdt.) Ordinance, 1942 (37 of 1942).

²Ins., *ibid.*

³Applied to Br. Baluchistan, see Notfn. No. 45-W., dated the 20th May, 1942, Gaz. of India, 1942, Pt. I, p. 879, and to tribal areas beyond the western and northern boundaries of N. W. F. Province, see Notfn. No. 49-W., dated the 27th May, 1942, Gaz. of India, 1942, Pt. I, p. 918.

THE UNITED PROVINCES SPECIAL ARMED CONSTABULARY ACT (EXTENSION) ORDINANCE, 1942.

Ordinance No. XVII of 1942.

An Ordinance to apply the provisions of the United Provinces Special Armed Constabulary Act, 1942, to members of the United Provinces Special Armed Constabulary constituted under that Act when serving outside the United Provinces.

(Published in the Gazette of India Extraordinary, dated the 21st April, 1942.)

WHEREAS an emergency has arisen which makes it necessary to apply the provisions of the United Provinces Special Armed Constabulary Act, 1942 (U. P. Act V of 1942), to members of the United Provinces Special Armed Constabulary constituted under that Act when serving outside the United Provinces ;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the United Provinces Special Armed Constabulary Act (Extension) Ordinance, 1942.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Application of U. P. Act V of 1942 to members of the United Provinces Special Armed Constabulary serving outside the United Provinces.*—The provisions of the United Provinces Special Armed Constabulary Act, 1942 (U. P. Act V of 1942), shall apply to and in relation to members of the United Provinces Special Armed Constabulary constituted under that Act when serving in any Province other than the United Provinces as they apply to and in relation to members of the said Constabulary within the United Provinces.

THE COLLECTIVE FINES ORDINANCE, 1942.

Ordinance No. XX of 1942.¹

An Ordinance to provide for the imposition of collective fines.

(Published in the Gazette of India Extraordinary, dated the 13th May, 1942.)

WHEREAS an emergency has arisen which makes it necessary to provide for the imposition of collective fines in connection with offences prejudicially affecting the defence of British India ²[the public safety, the maintenance of public order, the efficient prosecution of war, or the maintenance of supplies or services necessary to the life of the community] ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Collective Fines Ordinance, 1942.

(2) It extends to the whole of British India.

¹Applied to Br. Baluchistan, see Notfn. No. 47-W., dated the 27th May 1942, Gaz. of India, 1942, Pt. I, p. 918, and to the excluded and partially excluded areas in the Madras Presidency, see Notfn. No. 37, dated the 20th July 1942.

²Subst., Collective Fines (Amtd.) Ordinance, 1942 (43 of 1942).

(3) It shall come into force at once.

2. *Interpretation.*—In this Ordinance,—

(a) “ District Magistrate ” means in a Presidency-town, and within the limits of the tract defined by notification under section 1 of the Calcutta Suburban Police Act, 1866, (Ben. Act II of 1866), as the limits to which the operation of that Act is confined, the Commissioner of Police ;

(b) “ Provincial Government ” means in relation to a Chief Commissioner’s Province the Chief Commissioner.

3. *Imposition of collective fines on inhabitants of area.*—(1) If it appears to the Provincial Government that the inhabitants of any area are concerned in or abetting the commission of offences prejudicially affecting the defence of British India, ¹[the public safety, the maintenance of public order, the efficient prosecution of war, or the maintenance of supplies or services necessary to the life of the community], or are harbouring persons concerned in the commission of such offences, or are failing to render all the assistance in their power to discover or apprehend the offender or offenders, or are suppressing material evidence of the commission of such offences, the Provincial Government may, by notification in the official Gazette, impose a collective fine on the inhabitants of that area.

²[(1A) An officer empowered in this behalf by the Provincial Government by general or special order may exercise the power conferred by sub-section (1) on the Provincial Government :

Provided that an imposition of a collective fine by any such officer may be made by publication of the order imposing the fine either in the official Gazette or in any such other manner as such officer considers best calculated to bring the order to the notice of the inhabitants of the area concerned.]

(2) The Provincial Government ²[or any officer empowered in this behalf by the Provincial Government by general or special order], may exempt any person or class or section of such inhabitants from liability to pay any portion of such fine.

(3) The District Magistrate, after such inquiry as he may deem necessary, shall apportion such fine among the inhabitants who are liable collectively to pay it, and such apportionment shall be made according to the District Magistrate’s judgment of the respective means of such inhabitants.

²[(3A) In any such apportionment the District Magistrate may assign a portion of such fine to a Hindu undivided family to be payable by it.]

³[(4) The portion of such fine payable by any person (including a Hindu undivided family) may be recovered—

(a) in the manner provided by the Code of Criminal Procedure, 1898, (V of 1898), for the recovery of fines imposed by a Court, as if such portion were a fine imposed by the District Magistrate acting as a Court : Provided that the Provincial Government may, in lieu of the rules referred to in sub-section (2) of section 386 of the Code of Criminal Procedure, 1898, (V of 1898), make rules under this Ordinance regulating the manner in which warrants under clause (a) of sub-section (1) of the said section of the said Code are to be executed, and for the summary determination of any claims made by any person other than the person liable to

¹Subst.. Collective Fines (Amdt.) Ordinance, 1942 (43 of 1942).

²Ins., Collective Fines (Second Amdt.) Ordinance, 1942 (49 of 1942).

³Subst., Collective Fines (Third Amdt.) Ordinance, 1942 (63 of 1942).

pay the fine in respect of any property attached in execution of the warrant ; or

(b) as arrears of land-revenue.]

Explanation.—For the purposes of this section the expression “inhabitants of an area” includes persons who themselves or by their agents or servants occupy or hold land or other immovable property within such area, and landlords who themselves or by their agents or servants collect rents from holders or occupiers of land in such area, notwithstanding that they do not actually reside therein.

¹[4. *Bar of legal proceedings.*—No suit, prosecution or other proceeding whatsoever shall lie against any person for or in respect of anything which is in good faith done or intended to be done under this Ordinance.]

THE RAILWAY AIR RAID PRECAUTIONS SERVICES ORDINANCE, 1942.

Ordinance No. XXI of 1942.²

An Ordinance to provide for the constitution of Air Raid Precautions Services for railways.

(Published in the Gazette of India Extraordinary, dated the 16th May, 1942.)

WHEREAS an emergency has arisen which makes it necessary to provide for the constitution of Air Raid Precautions Services for railways to carry out measures for the protection of persons and property against hostile attack whether from the air or otherwise ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Railway Air Raid Precautions Services Ordinance, 1942.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Definitions.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “railway”, “railway administration” and “railway servant” have the meanings assigned to those expressions in the Indian Railways Act, 1890 (IX of 1890) ;

(b) “railway area” means any area owned, leased, rented or otherwise occupied for the purposes of or in connection with a railway.

3. *Constitution of Railway Air Raid Precautions Services.*—(1) Any railway administration may constitute for any railway area under its control a body to be called a Railway Air Raid Precautions Service, and may appoint a person, hereinafter called the Controller, to command such body in the area for which it has been constituted.

(2) A railway administration may include within the area for which a Railway Air Raid Precautions Service is so constituted such other areas, not being railway areas, as may be agreed upon in this behalf between the Provincial Government and the railway administration.

4. *Appointment as members of and release from Air Raid Precautions Service.*—(1) The railway administration, or an authority authorised in this

¹Added: Collective Fines (Amdt.) Ordinance, 1943 (5 of 1943).

²Applied to Br. Baluchistan, see Notfn. No. 55-W., dated the 10th June 1942, Gaz. of India, 1942, Pt. I, p. 1007.

behalf by the railway administration, may appoint as members of a Railway Air Raid Precautions Service—

(a) so many of the railway servants employed by the railway administration as it or such authority, as the case may be, considers necessary for the efficient working of the Service, and

(b) persons, not being railway servants, who offer themselves voluntarily for such appointment.

(2) Every person appointed as a member of a Railway Air Raid Precautions Service shall be given a certificate of membership in such form as may be prescribed.

(3) A railway servant or other person appointed as a member of a railway Air Raid Precautions Service may be released therefrom at any time by the authority by which he was appointed.

5. *Liability of members to serve until released.*—Every person appointed as a member of a Railway Air Raid Precautions Service shall be bound to serve in such Service and to perform the duties laid down in or prescribed under this Ordinance for members of such Service until his release therefrom as provided in sub-section (3) of section 4, and shall while so serving be subject to the provisions of any rules made under section 12.

6. *Appointment to offices of command.*—The Controller of a Railway Air Raid Precautions Service may appoint any member of the Service to any office of command in the Service.

7. *Functions of members of Railway Air Raid Precautions Services.*—

(1) The members of a Railway Air Raid Precautions Service shall perform such functions in relation to the carrying out of measures for the protection of persons and property against hostile attack as may be assigned to them by or under this Ordinance or any other law for the time being in force.

(2) The Controller, or any person authorised in this behalf by the Controller or by the railway administration, may at any time call out a member of a Railway Air Raid Precautions Service to undergo training or to discharge any duty laid down in or prescribed under this Ordinance for members of the Service :

Provided that the total period of time during which a member of a Railway Air Raid Precautions Service who is a railway servant may be so required to undergo training and discharge duties under this Ordinance shall not exceed forty-eight hours in any one month in addition to his normal hours of railway duty.

(3) Nothing contained in the Factories Act, 1934, (XXV of 1934), or in the Railway Servants' Hours of Employment Regulations limiting the hours of work of railway servants shall operate to affect the liability imposed on railway servants by sub-section (2) .

8. *Application of the Railway Disciplinary Rules.*—The Railway Disciplinary Rules shall apply to a member of a Railway Air Raid Precautions Service who is a railway servant while he is undergoing training or discharging duties under this Ordinance whether when called out under sub-section (2) of section 7 or otherwise, in the same manner as they apply to him in respect of his ordinary duties as a railway servant.

9. *Penalty for breach of duty.*—If any member of a Railway Air Raid Precautions Service when called out under sub-section (2) of section 7 without sufficient excuse neglects or refuses to obey such order or to discharge any duty laid down in or prescribed under this Ordinance for members of the Service, or at any time neglects or refuses to obey any lawful order or direction given to him for the performance of his duties under this Ordinance, or commits a

breach of any rule of discipline made under section 12, he shall, unless he is dealt with under the Railway Disciplinary Rules, be punishable with imprisonment for a term which may extend to one year and shall also be liable to fine.

10. *Sanction of prosecutions.*—No prosecution for any offence punishable under section 9 shall be instituted against any person except with the previous sanction of the railway administration by which the Railway Air Raid Precautions Service of which such person is a member was constituted.

11. *Bar of legal proceedings.*—No suit, prosecution or other legal proceeding shall lie against the Controller or any member of a Railway Air Raid Precautions Service for anything which is in good faith done or intended to be done in pursuance of this Ordinance or any rules made thereunder.

12. *Rule-making power.*—The Central Government may make rules consistent with this Ordinance,—

(a) prescribing the duties of members of Railway Air Raid Precautions Services and regulating the manner in which they may be called out for training or the discharge of their duties ;

(b) regulating the organisation, appointment, conditions of service, discipline accoutrements and clothing of members of any or all Railway Air Raid Precautions Services ;

(c) prescribing the form of certificates of membership of any or all Railway Air Raid Precautions Services ;

(d) generally for giving effect to the provisions of this Ordinance.

An Ordinance to provide for the exercise by an officer appointed by the Central Government of certain powers and functions vested in the Commander-in-Chief of His Majesty's Forces in India.

Ordinance No. XXII of 1942

THE DEPUTY COMMANDER-IN-CHIEF (POWERS) ORDINANCE, 1942.

(Published in the Gazette of India Extraordinary, dated the 22nd May, 1942.)

WHEREAS an emergency has arisen which makes it necessary to provide for the exercise by an officer appointed by the Central Government of certain powers and functions vested in the Commander-in-Chief of His Majesty's Forces in India ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo. 5, c. 2.), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Deputy Commander-in-Chief (Powers) Ordinance, 1942.

(2) It shall come into force at once.

2. *Powers of Deputy Commander-in-Chief.*—Any officer appointed to be Deputy Commander-in-Chief of His Majesty's Forces in India may exercise any of the powers and functions vested in the Commander-in-Chief of His Majesty's Forces in India by or under the Army Act, (44 & 45 Vict., c. 58), or by or under any Indian law for the time being in force.

THE BURMA NOTES ORDINANCE, 1942.

Ordinance No. XXVIII of 1942.¹

An Ordinance to regulate payments in British India by the Reserve Bank of India of the value of Burma bank notes.

(Published in the Gazette of India Extraordinary, dated the 6th June, 1942.)

WHEREAS an emergency has arisen which renders it necessary to make certain provisions regulating payments in British India by the Reserve Bank of India of the value of Burma bank notes issued by the bank and other matters pertaining thereto ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Burma Notes Ordinance, 1942.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Definition.*—In this Ordinance “ Burma note ” has the same meaning as in the Reserve Bank of India Act, 1934, (II of 1934).

3. *Prohibition of payments for Burma notes.*—Notwithstanding anything contained in any enactment or rule of law to the contrary the Reserve Bank of India shall not after such date as may be notified in this behalf by the Central Government in the official Gazette pay the value of any Burma note except to persons to whom or in circumstances in which it may be authorized by the Central Government by general or special order to make such payments.

4. *Temporary amendment of section 34, Act II of 1934.*—As from the date of the notification referred to in section 3 and until the Central Government by notification in the official Gazette otherwise directs references to bank notes in section 34 of the Reserve Bank of India Act, 1934, (II of 1934), shall not include references to Burma notes.

THE HELLENIC NAVAL COURT ORDINANCE, 1942.

Ordinance No. XXX of 1942.

An Ordinance to enable certain offences committed on board the Royal Hellenic Navy ship GEORGIOS AVEROFF to be tried and punished in British India by a Naval Court constituted under Hellenic law, and to make provision for matters relevant thereto.

(Published in the Gazette of India Extraordinary dated the 10th June, 1942.)

WHEREAS an emergency has arisen which makes it necessary to enable certain offences committed on board the Royal Hellenic Navy ship *Georgios Averoff* to be tried and punished in British India by a Naval Court constituted under Hellenic law, and to make provision for matters relevant thereto :

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act as set out in the Ninth Schedule to the Government

¹Applied to Br. Baluchistan, see Notfn. No. 70-W., dated the 9th July, 1942, Gaz. of India, 1942, Pt. I. p. 1159, and to the partially excluded areas of Orissa Province, see Orissa Govt. Notfn. No. 3173-F., dated the 10th August, 1942.

of India Act, 1935. (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Hellenic Naval Court Ordinance 1942.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Constitution of Naval Court.*—(1) A Naval Court constituted in accordance with Hellenic law (hereinafter referred to as the Naval Court) may, in respect of persons, not being British subjects, concerned in the commission of offences on board the Royal Hellenic Navy ship *Georgios Averoff*, exercise in British India, whether on board the said ship or at any place in Bombay allotted for the purpose by the Provincial Government, all such powers as are conferred upon such Court by Hellenic law.

(2) The Central Government shall, by notification in the official Gazette, publish notice of the establishment of the Naval Court and of its constitution and membership ; and thereupon such Court shall be conclusively presumed to have been lawfully constituted in accordance with Hellenic law and to have the jurisdiction conferred by this Ordinance.

(3) The Naval Court, and all persons taking part in any judicial proceedings before it, shall enjoy the like immunities and privileges as a British Indian Court and persons taking part in judicial proceedings before it, and the officers of the Naval Court shall have all the powers, immunities and privileges of police officers of British India within the precincts of the Court, and, in relation to persons in custody under the authority of the Court or delivered in custody to the Court by virtue of a warrant issued under this Ordinance, outside those precincts also.

3. *Compelling attendance of accused and witnesses.*—On application made under the authority of the said Naval Court to a magistrate in British India to secure the attendance before it of a person to be charged with an offence or required as a witness, the magistrate may take any such steps, whether by the issue of summons or a warrant for arrest or otherwise, directed to secure the attendance or production of such person before the Naval Court and his attendance or production at any adjourned hearing until he is released from such attendance by the Naval Court, as such magistrate could take for the attendance or production before himself of such person ; and if any person fails without reasonable excuse to comply with any requirement of a summons issued under this section he shall be liable to the like processes and punishable in the like manner as if he had failed to comply with a summons to appear before the magistrate himself.

4. *Execution of sentences.*—(1) A certificate issued by the Naval Court in any form approved by the Central Government, certifying that any person has been sentenced by that Court to detention or ordered to be detained pending the determination of any proceedings against him before the Court, shall be conclusive proof that he is lawfully detained and shall be sufficient warrant for the detention of that person in any jail in British India sanctioned in this behalf by the Central Government, and for the conveyance of that person to that jail, and, in the case of a person not already in custody, for the apprehension of that person for the purpose of being so conveyed.

(2) The Central Government may direct in respect of any person so sentenced to detention that the imprisonment to which he is subjected shall be either simple or rigorous.

(3) A fine imposed upon a person by the Naval Court, and any sum ordered to be paid by way of costs of any proceedings against him or by way of

penalty for breach of any undertaking given to the Court shall, without prejudice to any remedy under Hellenic law, be recoverable, on application made under the authority of the Court to any magistrate in British India, as if the were a fine imposed by that magistrate.

5. *Power to make rules.*—(1) The Central Government may by rule make any provision necessary in its opinion for the purpose of giving effect to the provisions of this Ordinance.

(2) Without prejudice to the generality of the power conferred by subsection (1) rules under this section may make provision—

(a) as to the reception from the Naval Court of persons to be detained under this Ordinance, their conveyance to a jail, and their custody and treatment therein and release therefrom ;

(b) as to the affording of assistance by magistrates in British India towards procuring the attendance or production of persons before the Naval Court.

THE CIVIL SERVICES (CONDITIONS OF SERVICE) ORDINANCE, 1942

Ordinance No. XXXIII of 1942

An Ordinance to regulate in a certain respect the conditions of service of persons serving His Majesty in a civil capacity in India.

(Published in the Gazette of India Extraordinary, dated the 9th July, 1942.)

WHEREAS an emergency has arisen which makes it necessary to regulate in the respect hereinafter appearing the conditions of service of persons serving His Majesty in a civil capacity in India ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Civil Services (Conditions of Service) Ordinance, 1942.

(2) It shall come into force at once.

2. *Liability to serve in any place in India.*—(1) Notwithstanding anything to the contrary in any rules regulating the conditions of service of persons serving His Majesty in a civil capacity in India, the appropriate Government may by order require any such person to serve in any place in India either itself or the Crown Representative or any other Government in British India, and every such person to whom any such order is directed shall comply therewith.

(2) In this section “the appropriate Government” means in relation to persons for the time being serving in connection with the affairs of the Central Government, that Government, and in relation to persons for the time being serving in connection with the affairs of a Province, the Government of that Province.

THE HELLENIC NAVAL COURT (EXTENSION) ORDINANCE, 1942.

Ordinance No. XXXIV of 1942.

An Ordinance to make provision for further Naval Courts constituted under Hellenic law in respect of the offences referred to in the Hellenic Naval Court Ordinance, 1942.

(Published in the Gazette of India Extraordinary, dated the 21st July, 1942.)

WHEREAS an emergency has arisen in that it has been found necessary to make provision for further Naval Courts constituted under Hellenic law in respect of the offences referred to in the Hellenic Naval Court Ordinance, 1942 (XXX of 1942) ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo. V, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Hellenic Naval Court (Extension) Ordinance, 1942.

(2) It shall come into force at once.

2. *Application of Ordinance XXX of 1942 to other Naval Courts established in respect of the offences referred to therein.*—All the provisions of the Hellenic Naval Court Ordinance, 1942, shall apply to, and in relation to, any further Naval Courts constituted in accordance with Hellenic law and consisting of one or more members which it may be necessary to establish for the purposes for which the Naval Court referred to in that Ordinance was established, as they apply to, and in relation to, that Court.

THE CROWN REPRESENTATIVE'S COMMISSION OF ENQUIRY (SUMMONSES) ORDINANCE, 1942.

Ordinance No. XXXV of 1942.¹

An Ordinance to provide for the service in British India of summonses and other processes issued by a Commission of Enquiry appointed by the Crown Representative.

(Published in the Gazette of India Extraordinary, dated the 24th July, 1942.)

WHEREAS an emergency has arisen which makes it necessary to provide for the service in British India of summonses which may be issued by a Commission of Enquiry appointed by the Crown Representative ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Crown Representative's Commission of Enquiry (Summonses) Ordinance, 1942.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *A Commission of Enquiry to be a Civil Court for the purposes of section 29 of Act V of 1908.*—The Commission of Enquiry appointed under the Resolution² of the Provincial Department, No. F. 18 (2)-P/42, dated the 4th June 1942, shall, for the purposes of section 29 of the Code of Civil Procedure, 1908, be deemed to be a Civil Court established by the authority of the Crown Representative.

¹Applied to the Chota Nagpur Divn. and to the Santhal Parganas Dist., see Bihar Notfn. No. 1070-A-3742-J.R., dated the 9th August, 1942.

²Gazette of India, 1942, Pt. I-A, p. 123.

THE ARMED FORCES (SPECIAL POWERS) ORDINANCE, 1942. Ordinance No. XLI of 1942.¹

An Ordinance to confer certain special powers upon certain officers of the armed forces.

(Published in the Gazette of India Extraordinary, dated the 15th August, 1942.)

WHEREAS an emergency has arisen which makes it necessary to confer certain special powers upon certain officers of the armed forces ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Armed Forces (Special Powers) Ordinance, 1942.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Power to certain officers of armed forces to order use of force in certain circumstances.*—(1) Any officer not below the rank of Captain in His Majesty's Military Forces and any officer holding equivalent rank either in His Majesty's Naval or Air Forces or in the forces of a foreign power allied with His Majesty or in the forces of a foreign authority recognised by His Majesty as competent to maintain armed forces for service in association with His Majesty's forces or in the military forces of an Indian State serving in association with any such forces as aforesaid may, if in his opinion it is necessary for the proper performance of his duty so to do, by general or special order in writing, require any personnel under his command to use such force as may be necessary, even to the causing of death, against any person who—

(a) fails to halt when challenged by a sentry, or

(b) does, attempts to do, or appears to be about to do or attempt to do, any such act as would endanger or damage any property of any description whatsoever which it is the duty of such officer to protect ; and it shall be lawful for such personnel, when so ordered, to use such force against such person.

(2) The use of force against any person in obedience to an order under sub-section (1) shall include the power to arrest and take into custody such person, and the use of such force as may be necessary, even to the causing of death, in order to effect such arrest.

3. *Arrested persons to be made over to police.*—Any person arrested and taken into custody under this Ordinance shall be made over to the officer in charge of the nearest police station as soon as practicable, together with a report of the circumstances occasioning the arrest.

4. *Protection to persons acting under this Ordinance.*—No prosecution, suit or other legal proceedings for any order purporting to be made under this Ordinance or for any act purporting to be done in obedience to any such order shall be instituted in any court except with the previous sanction of the Central Government, and notwithstanding anything contained in any other law for the time being in force, no person purporting in good faith to make such an order or to do any act in obedience thereto shall, whatever consequences ensue, be liable therefor.

¹Applied to Br. Baluchistan, see Notfn. No. 80-W., dated the 20th August, 1942, Gaz. of India, 1942, Pt. I. p. 1385, to the Darjeeling Dist. and the partially excluded areas of the Mymensingh Dist., with effect from 15th October, 1942, see Ben. Govt. Notfn. No. 20215-P., dated the 8th October, 1942 ; Sees. 2-4 ; applied to members of the Armed Reserves, Special Emergency Forces, Vizianagram and Pallavaram, and the Malabar Special Police, see Madras Govt. Notfn. No. 226-Home, dated the 29th January, 1943. Applied to the Chittagong Hill-tracts, with effect from 28th January, 1943, see Bengal Govt. Notfn. No. 273-S., dated the 22nd January, 1943.

THE RESERVE BANK OF INDIA (RANGOON REGISTER) ORDINANCE, 1942.

Ordinance No. XLIV of 1942.

An Ordinance to provide for certain matters relating to the Rangoon share register of the Reserve Bank of India.

(*Published in the Gazette of India Extraordinary, dated the 21st August 1942.*)

WHEREAS an emergency has arisen which makes it necessary to provide for certain matters relating to the Rangoon share register of the Reserve Bank of India ;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Reserve Bank of India (Rangoon Register) Ordinance, 1942.

(2) It shall come into force at once.

2. *Interpretation.*—In this Ordinance, unless there is anything repugnant in the subject or context, “ the Act ” means the Reserve Bank of India Act, 1934 (II of 1934), and other expressions have respectively the same meanings as in the Act.

3. *Emergency powers for dealing with matters relating to the Rangoon share register.*—Notwithstanding anything contained in the Act or the regulations made thereunder, the Central Board may—

(a) maintain the Rangoon share register at, and transfer the office of the Bank established at Rangoon under section 6 of the Act and the Rangoon Official Seal to, any place in India or Burma ;

(b) suspend all or any of the functions and duties of the Burma (Rangoon) Area Local Board or of its Committee, and direct that the said functions and duties so suspended shall be exercised or performed by such officer or officers of the Bank as it may authorise in this behalf ;

(c) authorise any officer of the Bank to attest affixations of the Rangoon Official Seal ;

(d) make, with the sanction of the Central Government, such other provision in respect of matters relating to the Rangoon share register as may in its opinion be necessary in the present emergency.

4. *Temporary amendment of section 9 of Act II of 1934, in its application to the Burma (Rangoon) Area Local Board.*—During the continuance of this Ordinance, sub-section (4) of section 9 of the Act shall, in its application to the Burma (Rangoon) Area Local Board, have effect as if for the words “ At any time within three months of the day on which the Directors representing the shareholders on any register are due to retire under the provisions of this Act,” the words “ As soon as practicable after such date as the Central Government may fix in this behalf by notification in the Gazette of India,” had been substituted.

5. *Validation of emergent action taken in respect of Rangoon share register.*—All orders made and all acts done by the Central Board or any officer of the Bank in respect of any matter relating to the Rangoon share register, including the exercise or performance of the functions and duties of the Burma (Rangoon) Area Local Board and of its Committee, on or after the 1st day of February, 1942, and before the commencement of this Ordinance, are hereby declared to be as legal and valid as they would have been if this Ordinance had been in force throughout that period and they had been made or done in exercise of powers conferred by, or conferrable under this Ordinance.

THE RAILWAYS (HOURS OF EMPLOYMENT) ORDINANCE, 1942.

Ordinance No. XLV of 1942.

An Ordinance to empower the Central Government to suspend the operation of Chapter VIA of the Indian Railways Act, 1890.

(Published in the Gazette of India Extraordinary, dated the 21st August 1942.)

WHEREAS an emergency has arisen which makes it necessary to empower the Central Government to suspend the operation of Chapter VIA of the Indian Railways Act, 1890 (IX of 1890), in certain cases ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Railways (Hours of Employment) Ordinance, 1942.

(2) It shall come into force at once.

2. *Power of Central Government to issue notification suspending operation of Chapter VIA, Act IX of 1890.*—The Central Government may, by notification in the official Gazette, direct that the provisions of Chapter VIA of the Indian Railways Act, 1890 (IX of 1890), and of the rules made under that Chapter shall, for such period as may be specified in the notification, cease to apply to railway servants of any railway or section of a railway specified in the notification, or shall cease to apply to such railway servants or classes of railway servants of any specified railway or section of a railway as may be specified in the notification.

3. *Rate of overtime pay.*—While any notification issued under section 2 is in force, any railway servant, to whom but for such notification Chapter VIA of the Indian Railways Act, 1890 (IX of 1890), would have applied, is employed for more hours in any week than the number of hours permitted under that Chapter, he shall be paid for overtime at not less than one and a half times his ordinary rate of pay.

THE RAILWAYS (EMPLOYMENT OF MILITARY PERSONNEL) ORDINANCE, 1942.

Ordinance No. LIII of 1942.

An Ordinance to make certain provisions relating to the employment of members of His Majesty's forces in the working and management of railways.

(Published in the Gazette of India Extraordinary, dated the 8th October, 1942.)

WHEREAS an emergency has arisen which renders it necessary to make certain provisions relating to the employment of members of His Majesty's forces in the working and management of railways ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Railways (Employment of Military Personnel) Ordinance, 1942.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Employment of military personnel to assist a railway administration in connection with the service of a railway.*—(1) When any members of His Majesty's forces are employed to assist a railway administration in connection with the service of a railway, then, whether such employment was before or is after the commencement of this Ordinance,—

(a) any provision of the Indian Railways Act, 1890 (IX of 1890), or of the rules made thereunder, which confers a power, status or immunity, or imposes a duty or liability upon railway servants as defined for the purposes of the said Act, in connection with the working, use, management and maintenance of railways, shall be construed as conferring the same power, status or immunity or imposing the same duty or liability as the case may be upon members of His Majesty's forces when so employed ;

(b) the employment of members of His Majesty's forces in addition to or in place of railway servants as defined for the purposes of the Indian Railways Act, 1890 (IX of 1890), shall not affect any liability that would have attached to the railway administration had such members been railway servants.

(2) Nothing in sub-section (1) shall be construed as making applicable to members of His Majesty's forces employed to assist a railway administration the provisions of Chapter VIA of the Indian Railways Act, 1890 (IX of 1890), or as derogating from any provision of military law regulating the governance, control and discipline of members of His Majesty's forces.

3. *Employment of military personnel to replace railway administration in working a railway.*—If at any time the whole of the working, management and maintenance of a railway, or of a specific portion or section of a railway, is assumed by the military authorities, the Central Government may notify the fact of such assumption in the official Gazette, and thereupon, so long as such assumption continues, the Indian Railways Act, 1890, (IX of 1890), shall cease to be applicable to the railway or the portion or section of a railway concerned.

THE REGISTRATION OF TRANSFERRED COMPANIES ORDINANCE, 1942.

Ordinance No. LIV of 1942.¹

An Ordinance to provide for enabling companies incorporated by or under the law in force in certain parts of His Majesty's dominions outside British India to continue to operate effectively by removal to British India.

(Published in the Gazette of India Extraordinary, dated the 8th October, 1942.)

WHEREAS an emergency has arisen which makes it necessary to provide for enabling companies incorporated by or under the law in force in certain parts

¹ Applied to Br. Baluchistan, see Notfn. No. 95-W., dated the 28th October, 1942, Gazette of India, 1942, Pt. I, p. 1656 ; the Darjeeling Dist. and to the partially excluded areas of the Mymensingh dist., see Ben. Govt. Notfn. No. 6022-Com., dated the 28th November, 1942 ; the partially excluded areas of Assam, see Assam Govt. Notfn. No. F.M.-22/43[S, dated the 16th February 1943 ; the partially excluded areas in Orissa, except the district of Angul and the Khondmals, see Orissa Govt. Notfn. No. 30491J-1/43-Com. (c), dated the 23rd February, 1942 ; the partially excluded areas in the C. P. and Berar, see Notfn. No. 392[C.R.-119]II, dated the 26th February 1943 ; the partially excluded areas in Madras Presidency, see Madras Govt. Notfn. No. 4119, dated the 24th February, 1943 ; the partially excluded areas in the Bombay Province, see Bombay Govt. Notfn. No. 4885/83/1860, dated the 8th February, 1943 ; the districts of the Chota Nagpur Dn. and the Santhal Parganas, see Bihar Govt. Notfn. No. 5148-13-48/42-Com., dated the 6th November, 1942 ; the partially excluded areas of the Jannsar-Bawair Pargana of the Dehra Dun Dist. and the portion of the Mirzapur Dist. south of the Kainour Range, see U. P. Govt. Notfn. No. 76-R/XII-e-5/43, dated the 12th February, 1943.

of His Majesty's dominions outside British India to continue to operate effectively by removal to British India ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Registration of Transferred Companies Ordinance, 1942.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Registration in British India of companies incorporated elsewhere in His Majesty's dominions.*—(1) If the Central Government is satisfied as respects any company incorporated by or under the law in force in any Dominion within the meaning of the Statute of Westminster, 1931 (22 Geo. 5, c. 4), or in British Burma, or in any Colony, or in any British Protectorate, or in any territory, in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and is being exercised by His Majesty's Government in the United Kingdom, that it is expedient for any of the purposes specified in sub-section (1) of section 2 of the Defence of India Act, 1939 (XXXV of 1939), to exercise the powers conferred on the Central Government by this Ordinance, the Central Government may by order direct that the company shall be registered under and in accordance with this Ordinance by a Registrar of companies in British India, and, subject to the provisions of this Ordinance, where such a company is so registered, it shall, except so far as the order of the Central Government otherwise provides, be treated for all purposes as if it were a company incorporated under the Indian Companies Act, 1913 (VII of 1913), and registered under that Act in British India and not elsewhere.

(2) Any such order may, in respect of the company to which it relates,—

(a) modify, adapt or exclude any of the provisions of the Indian Companies Act, 1913 (VII of 1913) :

(b) modify, adapt or exclude any provisions of the memorandum and articles of association of the company as in force immediately before the making of the order, or of any other instrument as then in force regulating the constitution or functions of the company ;

(c) contain such transitional provisions as appear to the Central Government to be necessary or expedient for enabling the company to carry on or recommence business outside the territory under the law of which it was incorporated immediately before the making of the order ; and

(d) contain such incidental, supplemental and consequential provisions as appear to the Central Government to be necessary or expedient for the purposes of the order.

(3) The Central Government may make rules—

(a) regulating the manner in which companies are to be registered under this Ordinance and the matters which are to be registered under this Ordinance in relation to any company, and

(b) imposing upon Registrars of companies under the Indian Companies Act, 1913 (VII of 1913), such duties in respect of the keeping of registers, books and other documents relating to the companies so registered as may be specified in the rules.

(4) The registration of a company under this Ordinance shall not affect any liability of the company or any other person to income-tax or excess profits tax, and for the purposes of either such tax a company shall not be deemed to

be resident in British India by reason only of the fact that the control and management of the affairs of the company is temporarily situated wholly in British India in consequence of the company having been registered in British India under this Ordinance.

3. *Delegation of powers.*—The powers conferred on the Central Government by section 2, except the power to make rules conferred by sub-section (3) of that section, may, if the Central Government so directs, be exercised in a Governor's Province by the Provincial Government and in a Chief Commissioner's Province by the Chief Commissioner.

THE ALLIED FORCES ORDINANCE, 1942.

Ordinance No. LVI of 1942.

An Ordinance to make certain provisions respecting the armed forces in British India of foreign Powers allied with His Majesty, and of certain foreign Authorities.

(Published in the *Gazette of India Extraordinary*, dated the 26th October, 1942.)

WHEREAS an emergency has arisen which renders it necessary to make certain provisions respecting the armed forces in British India of Foreign Powers allied with His Majesty, and of certain foreign Authorities ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Allied Forces Ordinance, 1942.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Interpretation.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) "foreign force" means any naval, military or air force for the time being present in British India or on board any ship or aircraft of His Majesty's Indian forces, or of forces serving in association with His Majesty's Indian forces, belonging to—

(i) a foreign Power allied with His Majesty to which this Ordinance is for the time being applicable, or

(ii) a foreign Authority recognised by His Majesty as competent to maintain naval, military or air forces for service in association with His Majesty's forces to which this Ordinance is for the time being applicable ;

(b) "court" used with reference to a naval, military or air force court exercising jurisdiction by virtue of section 3, or by virtue of the Naval Discipline Act, (29 & 30 Vict., c. 109), the Army Act, (44 & 45 Vict., c. 58), or the Air Force Act, as the case may be, includes a court of inquiry, and any officer who is empowered to review the proceedings of any such court or court of inquiry or to investigate charges or himself to dispose of charges ; and the expressions "order" and "sentence" shall be construed accordingly.

3. *Powers of naval, military and air force courts and authorities.*—(1) Where any naval, military or air forces of any foreign Power allied with His Majesty, to which this Ordinance is for the time being made applicable by the Central Government by notification in the official Gazette, are for the time being

present in British India or on board any ship or aircraft of His Majesty's Indian forces, or of forces serving in association with His Majesty's Indian forces, the naval, military and air force courts and authorities of that Power may, subject to the provisions of this Ordinance, exercise within British India, in relation to members of those forces of that Power in matters concerning discipline and internal administration, all such powers as are conferred upon them by the law of that Power.

(2) When any foreign Authority is recognised by His Majesty as competent to maintain naval, military, or air forces for service in association with His Majesty's forces, and the Central Government has, by notification in the official Gazette, made this Ordinance applicable for the time being to that Authority, the said Authority may, by order made with the concurrence of the Central Government, confer, whether by reference to the present or former national law of the Authority or otherwise, upon naval, military and air force courts and authorities constituted in accordance with the order all such powers as may be necessary to secure the discipline and internal administration of any forces so maintained which are for the time being present in British India, or on board any ship or aircraft of His Majesty's Indian forces, or of forces serving in association with His Majesty's Indian forces.

(3) An order made under sub-section (2) or any order varying or revoking such an order may be proved by the production of a copy of that order published in the Gazette of India.

4. Privileges and immunities of foreign courts and witnesses before them.—

A naval, military or air force court exercising jurisdiction by virtue of section 3, and witnesses appearing before any such court, shall enjoy the like immunities and privileges as are enjoyed by a court exercising jurisdiction by virtue of the Naval Discipline Act, (29 & 30 Vict., c. 109), the Army Act, (44 & 45 Vict., c. 58), or the Air Force Act, as the case may be, and by witnesses appearing before such a court.

*5. Validity of proceedings in and action taken by foreign courts.—*When any order or sentence has, whether within or without British India, been passed by a court which is empowered by virtue of section 3 to exercise jurisdiction in British India, then for the purposes of any legal proceedings within British India the court shall be deemed to have been properly constituted, and its proceedings shall be deemed to have been regularly conducted, and the order or sentence shall be deemed to be within the jurisdiction of the court and in accordance with the law of the Power or followed by the foreign Authority by which the court was constituted, and a sentence if executed according to the tenor thereof shall be deemed to have been lawfully executed, and any person who is detained in custody in pursuance of any sentence of such a court or pending the determination by such a court of a charge brought against him shall, for the purposes of any such proceedings as aforesaid, be deemed to be in legal custody.

6. Proof of certain facts by certificate of officer commanding foreign force.—

(1) For the purposes of any legal proceedings in British India a certificate signed by the officer commanding any foreign force that a member of that force is being detained for either of the causes referred to in section 5 shall be conclusive evidence of the cause of his detention ; and a certificate signed by such an officer that the persons specified in the certificate are sitting or sat as a court exercising jurisdiction by virtue of section 3 shall be conclusive evidence of that fact.

(2) Any document purporting to be a certificate issued for the purposes of this section and to be signed by such an officer as is referred to in sub-section (1) shall be received in evidence and shall, unless the contrary is proved be presumed to be a certificate by such officer.

7. *Arrest of persons charged with offences.*—(1) On application made by or under the authority of the officer commanding any foreign force to a magistrate in British India for the arrest of a member of such force alleged to have been guilty of an offence against the law of the Power or followed by the Authority to which such force belongs, the magistrate may issue a warrant for the arrest of such member, and such warrant may direct his delivery when so arrested to the appropriate authorities of the force of which he is a member.

(2) On request made by or under the authority of the officer commanding any foreign force to the Central Government the Central Government may, by general or special orders to any naval, military or air force of His Majesty in India, direct the members thereof to arrest members of such first mentioned force alleged to have been guilty of offences against the law of the Power or followed by the Authority to which that force belongs and to hand over any person so arrested to the appropriate authorities of that force.

8. *Securing attendance of witnesses before a foreign court.*—On application made under the authority of a foreign court exercising jurisdiction by virtue of section 3 to a magistrate in British India to secure the attendance before it of a person required as a witness, the magistrate may take any such steps, whether by the issue of a summons or a warrant for arrest or otherwise, directed to secure the attendance or production of such person before the foreign court and his attendance or production at any adjourned hearing until he is released from such attendance by the foreign court, as such magistrate could take for the attendance or production before himself of a witness ; and if any person fails without reasonable excuse to comply with any requirement of a summons issued under this section he shall be liable to the like processes and punishable in the like manner as if he had failed to comply with a summons to appear before the magistrate himself.

9. *Detention and imprisonment in British India of persons detained or imprisoned by order of a foreign court.*—(1) Where a court exercising jurisdiction by virtue of section 3 orders the detention in custody or the imprisonment of a member of a foreign force, the Central Government may upon the request of the officer commanding the force order the said member to be temporarily detained or imprisoned in a military prison or detention barrack in India or to be detained or imprisoned during the whole or any part of the term of his sentence in a military prison or detention barrack in British India.

(2) If where an order of detention or imprisonment such as is referred to in sub-section (1) has been made the officer commanding the force does not require that the detention or imprisonment should be in a military prison or detention barrack, the Central or a Provincial Government may, upon the request of such officer, order the person concerned to be detained or imprisoned in a prison in British India.

(3) The Central Government, and in the case referred to in sub-section (2) a Provincial Government also, may, after consultation with the officer commanding the foreign force concerned, by general or special order, make such provision as it thinks necessary for the purpose of giving effect to the provisions of this section, including provision with respect to the reception of persons to be detained or imprisoned, their return to the officer commanding the force to which they belong, their treatment while so detained or imprisoned (including their treatment in the event of unsoundness of mind, and the adjustment to the terms of any sentence passed of the normal conditions governing such detention or imprisonment), and the circumstances under which they are to be released.

10. *Relations of foreign forces to civil power.*—The Central Government may authorise any authority or person in British India to perform, at the request of the officer commanding any foreign force, but subject to such limitations as may be specified in the authorisation, any function, in relation to that

force and members thereof which such authority or person performs or could perform in relation to or to the members of a naval, military or air force of His Majesty in India of like nature to that force, and for the purpose of the exercise of any such function any power exercisable by virtue of any enactment by such authority or person in relation to or to the members of a naval, military or air force in India shall be exercisable in relation to the said foreign force and members thereof.

11. Application to foreign forces of certain laws applicable to His Majesty's forces.—(1) Any enactment for the time being in force in British India which—

(a) exempts, or provides for the exemption of, any vessel, vehicle, aircraft, machine or apparatus of, or employed for the purposes of, His Majesty's forces or any of them from the operation of any enactment ; or

(b) in virtue of a connection with His Majesty's forces or any of them, confers a privilege or immunity on any person ; or

(c) in virtue of such a connection, excepts any property, trade or business, in whole or in part, from the operation of any enactment, or from any tax, rate, imposition, toll or charge ; or

(d) imposes upon any person or undertaking obligations in relation to His Majesty's forces or any of them, or any member or service court thereof ; or

(e) penalises misconduct by any person in relation to His Majesty's forces or any of them, or any member or service court thereof, shall, with necessary modifications, apply in relation to a foreign force as it would apply in relation to a force of His Majesty of a like nature to the foreign force :

Provided that the Central Government may, by notification in the official Gazette, direct that any such enactment either shall not apply or shall apply with such exceptions and subject to such adaptations or modifications as may be specified in the notification.

(2) A notification under this section may apply either generally or in relation to any particular foreign force or in relation to any particular place.

12. Saving of limitation of jurisdiction of British Indian courts.—(1) Nothing in section 3 shall affect the jurisdiction of any criminal court in British India to try a member of a foreign force for any act or omission constituting an offence against the law of British India.

(2) If a person sentenced by a court exercising jurisdiction by virtue of section 3 to punishment for an offence is afterwards tried by a criminal court in British India in respect of any act or omission which constituted that offence, such criminal court shall, in awarding punishment in respect of that act or omission, have regard to any punishment imposed on him by the said sentence.

(3) A court shall not have jurisdiction by virtue of section 3 to try any person for any act or omission constituting an offence for which he has been acquitted or convicted by a criminal court in British India :

Provided that nothing in this sub-section shall apply to any proceedings, whether by way of trial or otherwise, taken in such a court against a member of a foreign force convicted by a criminal court in British India where such proceedings are by the law of the foreign Power or foreign Authority concerned necessary for the making against such member of an order of dismissal from service or degradation in consequence of such a conviction.

(4) No proceedings in respect of the pay, terms of service or discharge of a member of a foreign force shall be entertained by any court in British India.

**THE ALLIED FORCES (UNITED STATES OF AMERICA)
ORDINANCE, 1942.**

Ordinance No. LVII of 1942.

An Ordinance to make certain provisions respecting the military and naval forces in British India of the United States of America.

(Published in the Gazette of India Extraordinary, dated the 26th October, 1942.)

WHEREAS an emergency has arisen which renders it necessary, in order to give effect to an agreement recorded in Notes exchanged between the Central Government in British India and the Government of the United States of America, relating to jurisdiction over members of the military and naval forces of the United States of America, to make certain provisions respecting those forces in British India ;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Allied Forces (United States of America) Ordinance, 1942.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. Bar of criminal proceedings in British Indian Courts.—(1) Notwithstanding anything contained in section 12 of the Allied Forces Ordinance, 1942 (LVI of 1942), or elsewhere in any law in force in British India, no criminal proceedings shall, subject as hereinafter provided, be prosecuted in British India before any Court of British India against a member of the military or naval forces of the United States of America :

Provided that, upon representation made to it on behalf of the Government of the United States of America in any particular case, the Central Government may by order direct that the provisions of this sub-section shall not apply in that case.

(2) Nothing in sub-section (1) shall affect any powers of arrest, search, entry or custody exercisable under the law in force in British India with respect to offences committed or believed to have been committed against that law, but where a person against whom proceedings cannot, by virtue of that sub-section, be prosecuted before a Court of British India is in the custody of any authority of British India he shall, in accordance with such general or special directions as may be given by or under the authority of the Central Government for the purpose of giving effect to any arrangements made by the Central Government with the Government of the United States of America, be delivered into the custody of such authority of the United States of America as may be provided by the directions :

Provided that the powers of arrest, search and entry saved by this sub-section shall not be exercised on or in respect of any premises occupied or used by the military or naval forces of the United States of America unless application is first made to the officer commanding the forces occupying or using such premises.

(3) Nothing contained in this Ordinance shall render any person subject to any liability whether civil or criminal in respect of anything done by him to a member of the said forces in good faith and without knowledge that he was a member of those forces.

3. Membership of military and naval forces and proof thereof.—(1) For the purposes of this Ordinance and of the Allied Forces Ordinance, 1942 (IVI

of 1942), in its application to the military and naval forces of the United States of America, all persons who are by the law of the United States of America for the time being subject to the military or naval law of that country shall be deemed to be members of the said forces :

Provided that no person employed in connection with the said forces, not being a citizen or national of the United States of America, shall be deemed to be a member of those forces unless he entered into that employment outside British India.

(2) For the purposes of any proceedings in any Court of British India a certificate issued by or on behalf of such authority as may be appointed for the purpose by the Government of the United States of America stating that a person of the name and description specified in the certificate is, or was at the time so specified, subject to the military or naval law of the United States of America, shall be conclusive evidence of that fact.

(3) For the purposes of any proceedings in any Court of British India in which the question is raised whether a party to the proceedings is or was at any time a member of the military or naval forces of the United States of America, any such certificate as aforesaid relating to a person bearing the name in which that party is charged or appeared in the proceedings shall, unless the contrary is proved, be deemed to relate to that party.

(4) Any document purporting to be a certificate issued for the purposes of this section, and to be signed by or on behalf of an authority described as appointed by the Government of the United States of America for the purposes of this section, shall be received in evidence and shall, unless the contrary is proved, be deemed to be a certificate issued by or on behalf of an authority so appointed.

THE LEGAL TENDER (INSCRIBED NOTES) ORDINANCE, 1942.

Ordinance No. LIX of 1942.¹

An Ordinance to restrict the negotiability of currency and other notes inscribed with messages of a political character.

(Published in the Gazette of India Extraordinary, dated the 31st October, 1942.)

WHEREAS an emergency has arisen which makes it necessary to restrict the negotiability of currency and other notes inscribed with messages of a political character ;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Legal Tender (Inscribed Notes) Ordinance, 1942.

(2) It shall come into force at once.

2. *Notes bearing messages of a political character not to be legal tender.*—Notwithstanding anything contained in the Reserve Bank of India Act, 1934 (II of 1934), or in the Currency Ordinance, 1940 (IV of 1940), or in any other enactment or rule of law, a currency note of the Government of India, a

¹Applied to all the partially excluded areas of the Orissa Province, see Orissa Govt. Notfn. No. 7-F (C), dated the 2nd January, 1943.

bank note issued by the Reserve Bank of India, or a Government of India one-rupee note issued under the Currency Ordinance, 1940, which bears written upon it any extrinsic words or visible representations intended to convey or capable of conveying a message of a political character, shall not be legal tender in British India : and the Reserve Bank of India shall not be under any legal obligation to receive any such note, or to issue rupee coin or other coin or currency notes or bank notes in exchange for any such note, or to refund the value of any such note :

Provided that the Reserve Bank of India may in its discretion refund as of grace the whole or part of the value of any such note.

THE INCOME-TAX AND EXCESS PROFITS TAX (EMERGENCY) ORDINANCE, 1942.

Ordinance No. LX of 1942.¹

An Ordinance to remove certain difficulties caused by the destruction of documents and records pertaining to the collection of Income-tax and Excess Profits Tax.

(Published in the Gazette of India Extraordinary, dated the 14th November, 1942.)

WHEREAS an emergency has arisen which makes it necessary to remove certain difficulties caused by the destruction of documents and records pertaining to the collection of Income-tax and Excess Profits Tax :

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. Short title and commencement.—(1) This Ordinance may be called the Income-tax and Excess Profits Tax (Emergency) Ordinance, 1942.

(2) It shall come into force at once.

2. Power to issue notices and to secure returns.—(1) Where documents or records pertaining to the assessment, collection or payment of income-tax or excess profits tax have been damaged, lost or destroyed as a result of riot or civil commotion, the authority authorised under the Indian Income-tax Act, 1922 (XI of 1922), or the Excess Profits Tax Act, 1940 (XV of 1940), as the case may be, to issue any notice for any of the purposes of either Act may, notwithstanding anything contained in either of the said Acts, and notwithstanding that such notice has already been issued, or has already been issued and has been or is alleged to have been complied with, or where such notice has already been issued, that the time within which the notice is to be issued has already expired, reissue such notice, and any notice so reissued shall in all respects have the same effect as if it were the original notice, and any proceedings that could have been taken in pursuance of or subsequent to the original notice may be taken in like manner in pursuance of or subsequent to the notice so reissued :

Provided that in respect of assessments or reassessments made in the course of any proceedings taken under the powers conferred by this sub-section the periods of eight and four years mentioned in sub-section (2) of section 34 of the Indian Income-tax Act, 1922 (XI of 1922), shall be deemed to commence on and to run from the date on which the notice under sub-section (2) of section 22

¹Applied to all the partially excluded areas of the Orissa Province, see Orissa Govt. Notfn. No. 986-F. (C), dated the 20th January, 1943. So much of the Ordinance as pertains to the collection of income-tax shall apply to the Chittagong Hill-tracts, with effect from 14th January, 1943, subject to certain exceptions, see Ben. Govt. Notfn. No. 3-P.R.I., dated the 11th January, 1943.

or sub-section (1) of section 34 of that Act is reissued under the powers conferred by this sub-section :

Provided further that where a person proves to the satisfaction of the Income-tax Officer or the Excess Profits Tax Officer, as the case may be, that he has already been assessed in respect of the income or the excess profits in respect of which notices under section 22 or section 34 of the Indian Income-tax Act, 1922 (XI of 1922), or under section 13 or section 15 of the Excess Profits Tax Act, 1940 (XV of 1940), have been reissued, and that he has paid the tax, he shall not be subject to fresh assessment.

(2) Any return or information required or which could be required under the provisions of either of the said Acts to be furnished by any person shall, if the Income-tax Officer or the Excess Profits Tax Officer so requires at any time be again furnished by such person notwithstanding that it may have been or is alleged to have been already furnished, and any failure to comply with any such requirement by an Income-tax Officer or Excess Profits Tax Officer shall involve the same consequences as if the return or information had been altogether withheld.

3. *Settlement of doubts.*—If any question arises whether a document or record has been damaged, lost or destroyed as a result of riot or civil commotion, the matter shall be referred to the Commissioner of Income-tax or to the Commissioner of Excess Profits Tax, as the case may be, and his decision shall be final.

4. *Power to make rules.*—The Central Government may make rules providing for any matter necessary to carry into effect the purposes of this Ordinance.

THE INDIAN LEGISLATURE (PREVENTION OF DISQUALIFICATION) ORDINANCE, 1942.

Ordinance No. LXII of 1942.¹

An Ordinance to declare certain offices in the service of the Crown in India to be offices the holding of which does not disqualify the holder thereof for election as or continuance as a member of either Chamber of the Indian Legislature.

(Published in the Gazette of India Extraordinary, dated the 28th November, 1942.)

WHEREAS an emergency has arisen which makes it necessary to declare certain offices in the service of the Crown in India to be offices the holding of which does not disqualify the holder thereof for election as or continuance as a member of either Chamber of the Indian Legislature ;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, commencement, effect and duration.*—(1) This Ordinance may be called the Indian Legislature (Prevention of Disqualification) Ordinance, 1942.

(2) It shall come into force at once, but it shall be deemed to have taken effect on the 3rd day of September, 1939.

(3) It shall be in force only until the termination of the present hostilities and for six months thereafter.

¹Applied to the Darjeeling Dist., and to the partially excluded areas of the Mymensingh Dist., with effect from 28th January, 1943, see Ben. Govt. Notfn. No. 84-A.R., dated the 25th January 1943.

2. *Prevention of disqualification.*—From the date on which this Ordinance is deemed to have taken effect and so long as it remains in force a person shall not be deemed to have been and shall not be disqualified for election as or continuance as a member of either Chamber of the Indian Legislature by reason only that he holds or accepts any office in the service of the Crown in India which is—

(a) an office not involving both of the following incidents, namely, that the incumbent—

(i) is a whole time servant of Government, and

(ii) is remunerated either by salary or fees ; or

(b) an office in the naval, military or air forces of, or raised in British India on behalf of, His Majesty ; or

(c) an office certified by the Central Government to be an office created for a purpose connected with the prosecution of the war, or to be an office to which, but for war conditions, a member of the defence or civil services of the Crown would have been appointed.

3. *Removal of doubts.*—If any question arises whether the incumbent of any office is or is not a whole time servant of Government for the purposes of sub-clause (i) of clause (a) of section 2, the decision of the Central Government shall be final.

THE ARMED FORCES (SPECIAL POWERS) EXTENSION ORDINANCE, 1942.

Ordinance No. LXVI of 1942.¹

An Ordinance to provide for the extension of the Armed Forces (Special Powers) Ordinance, 1942, to officers and members of police forces employed on certain duties.

(Published in the Gazette of India Extraordinary, dated the 24th December, 1942.)

WHEREAS an emergency has arisen which makes it necessary to provide for the extension of the Armed Forces (Special Powers) Ordinance, 1942 (XLI of 1942), to officers and members of police forces employed on certain duties ;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Armed Forces (Special Powers) Extension Ordinance, 1942.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Power to extend Ord. XLI of 1942 to police forces.*—The Central Government or a Provincial Government may, by notification in the official Gazette, direct that the provisions of section 2 and section 4 of the Armed Forces (Special Powers) Ordinance, 1942 (XLI of 1942), shall apply to the officers and members of any police force or any portion of a police force specified in the notification, when employed on any duty specified in the notification, as they apply to officers and members of His Majesty's Military Forces ; and on such direction being made the powers exercisable by an officer not below the rank of Captain in His Majesty's Military Forces shall be exercisable by any officer of a police force so specified who holds a gazetted appointment in such force.

¹Applied to the Chittagong Hill Tracts, with effect from 28th January, 1943, see Ben. Govt. Notfn. No. 273-S., dated the 22nd January 1943.

**THE BENGAL AND NORTH WESTERN AND ROHILKUND
AND KUMAON RAILWAY COMPANIES (TRANSFERRED
LIABILITIES) ORDINANCE, 1942.**

Ordinance No. LXVII of 1942.

An Ordinance to impose upon the Bengal and North Western Railway Company, Limited, and the Rohilkund and Kumaon Railway Company, Limited, an obligation to make certain payments to the Central Government.

(Published in the Gazette of India Extraordinary, dated the 29th December, 1942.)

WHEREAS upon the determination on the 31st day of December, 1942, of the Contract made on the 12th day of December, 1882, and all other contracts supplemental thereto between the Secretary of State in Council of India and the Bengal and North Western Railway Company, Limited, and the Contract made on the 12th day of October, 1882, and all other contracts supplemental thereto between the Secretary of State in Council of India and the Rohilkund and Kumaon Railway Company, Limited, the Central Government will assume liability for all gratuities, or special contributions to the provident funds, leave salaries and cost of overseas passages of the employees of those Companies taken into employment by the Central Government in respect of the period of their service under those Companies ;

And whereas an emergency has arisen which makes it necessary to impose upon the Bengal and North Western Railway Company, Limited, and the Rohilkund and Kumaon Railway Company, Limited, an obligation to make certain payments to the Central Government in requital for the assumption of this liability ;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Bengal and North Western and Rohilkund and Kumaon Railway Companies (Transferred Liabilities) Ordinance, 1942.

(2) It shall come into force at once.

2. *Interpretation.*—In this Ordinance “ the Company ” means the Bengal and North Western Railway Company, Limited, or the Rohilkund and Kumaon Railway Company, Limited, as the case may be.

3. *Payment by Company to the Central Government.*—The Company shall pay to the Central Government out of its assets such sum as on the 31st day of December, 1942, is sufficient to meet the payment of—

(a) all amounts payable as gratuities or as special contributions to provident funds, as the case may be, which, if the Company had continued to exist after the 31st day of December, 1942, it would have paid on or after that day under the normal operation of its rules to its employees then in service if their services had been terminated on that day by the abolition of their appointments ;

(b) all amounts payable by way of leave salary for such periods of leave as, if the Company had continued to exist after the 31st day of December, 1942, it would have sanctioned under the normal operation of its rules to its employees then in service, if they had been permitted to proceed on leave on the 1st day of January, 1943, with permission to retire on the expiry of that leave ; and

(c) all amounts credited by the 31st day of December, 1942, to its employees in passage accounts, together with such portion of the credits next due to such accounts as bears to the whole amount of the credits that would have been made under the normal operation of its rules had the Company continued to exist after that date the same ratio as the employees' service from the date on which the last credit was earned up to the 31st day of December, 1942, bears to the whole period of service that would have had to be completed under the normal operation of the Company's rules before the credits next due were earned.

4. *Payments to employees out of money paid to Central Government.*—The money paid to the Central Government under section 3 shall be utilised by the Central Government to effect payment to employees of the Company re-employed by the Central Government of the amounts referred to in clauses (a), (b) and (c) of section 3, in accordance with the principles prescribed in the rules of the Company, or in the rules of the Central Government by which those rules may be replaced.

THE COMMISSIONER OF AJMER-MERWARA (CONSTRUCTION OF REFERENCES) ORDINANCE, 1942.

Ordinance No. LXVIII of 1942.

An Ordinance to provide for the construction of references to the Commissioner of Ajmer-Merwara.

(Published in the Gazette of India Extraordinary, dated the 31st December, 1942.)

WHEREAS an emergency has arisen which makes it necessary to provide for the construction of references to the Commissioner of Ajmer-Merwara :

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Commissioner of Ajmer-Merwara (Construction of References) Ordinance, 1942.

(2) It shall come into force on the 1st day of January, 1943.

2. *Construction of references to Commissioner.*—All enactments, and all notifications, orders, schemes, rules, forms and bye-laws issued, made or prescribed under any enactment, which immediately before the commencement of this Ordinance were in force in Ajmer-Merwara or any part thereof shall, in their application to Ajmer-Merwara or to that part thereof, as the case may be, be construed as if references therein to the Commissioner or to the Commissioner of Ajmer-Merwara were references to the Deputy Commissioner of Ajmer-Merwara :

Provided that the Chief Commissioner of Ajmer-Merwara may, by notification in the official Gazette, direct that any power or duty conferred or imposed by or under any such enactment on the Commissioner or the Commissioner of Ajmer-Merwara shall be exercised or performed by himself or by such other authority as he may specify in this behalf and not by the Deputy Commissioner of Ajmer-Merwara.

THE ENEMY AGENTS ORDINANCE, 1943.

Ordinance No. I of 1943.¹

An Ordinance to provide for the trial and punishment of enemy agents and persons committing certain offences with intent to aid the enemy.

(Published in the Gazette of India Extraordinary, dated the 9th January, 1943.)

WHEREAS an emergency has arisen which makes it necessary to provide for the trial and punishment of enemy agents and persons committing certain offences with intent to aid the enemy ;

Now, therefore, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Enemy Agents Ordinance, 1943.

(2) It extends to the whole of British India and applies also—

(a) to British subjects and servants of the Crown in any part of India,

(b) to British subjects who are domiciled in any part of India wherever they may be, and

(c) to persons on board any ship or aircraft registered in British India.

(3) It shall come into force at once.

2. *Definitions.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “ enemy ” means any State at war with His Majesty ;

(b) “ enemy agent ” means a person, not operating as a member of an enemy armed force, who is employed by, or works for, or acts on instructions received from, the enemy.

3. *Penalty for aiding the enemy.*—Whoever is an enemy agent, or, with intent to aid the enemy, does, or attempts or conspires with any other person to do, any act which is designed or likely to give assistance to the naval, military or air operations of the enemy or to impede the naval, military or air operations of His Majesty's Forces or to endanger life, shall be punishable with death.

4. *Offences triable under this Ordinance.*—(1) Any offence punishable under section 3 committed at any time after the 2nd day of September, 1939, whether committed before or after the commencement of this Ordinance, shall be triable under the provisions of this Ordinance.

(2) Where a person is charged before a Special Judge with an offence punishable under section 3, he may be charged with and tried at the same trial for any other offence with which he might, under the Code of Criminal Procedure, 1898 (V of 1898), be charged at one trial, and the procedure of this Ordinance shall apply to the trial of any such other offence.

5. *Appointment and jurisdiction of Special Judges.*—(1) For the trial of offences punishable under section 3, the Central Government may appoint as Special Judges, having jurisdiction throughout British India, any persons who have acted for a period of not less than two years in the exercise of the powers of a Sessions Judge or an Assistant Sessions Judge under the Code of Criminal Procedure, 1898 (V of 1898).

(2) A Special Judge shall try any offence punishable under section 3 which the Central Government by general or special order in writing directs to be tried

¹Applied to the Darjeeling Dist. and to the partially excluded areas of the Mymensingh Dist., with effect from the 11th March, 1943, see Ben. Govt. Notfn. No. 2321-Def., dated the 3rd March, 1943.

by him, and may hold his sittings for the trial of any case in any place fixed by the Central Government.

6. *Transfer of cases from one Special Judge to another.*—(1) The Central Government may, at any stage of the proceedings before a Special Judge, transfer the case to another Special Judge.

(2) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), when a case is transferred under sub-section (1), the Special Judge to whom the case is transferred shall not be bound to re-summon or re-hear the witnesses or any of them unless he is satisfied that such a course is necessary in the interests of justice.

7. *Procedure of Special Judges.*—(1) A Special Judge may take cognisance of an offence without the accused being committed to his Court for trial, and, in trying accused persons, shall follow the procedure prescribed by the Code of Criminal Procedure, 1898 (V of 1898), for the trial of warrant cases by Magistrates :

Provided that a Special Judge shall ordinarily record a memorandum only of the substance of the evidence of each witness examined, may refuse to summon any witness if satisfied after examination of the accused that the evidence of such witness will not be material, and shall not be bound to adjourn any trial for any purpose unless such adjournment is in his opinion necessary in the interests of justice.

(2) In matters not coming within the scope of sub-section (1) the provisions of the Code of Criminal Procedure, 1898, (V of 1898), so far as they are not inconsistent with this Ordinance, shall apply to the proceedings of a Special Judge ; and for the purposes of the said provisions the Court of the Special Judge shall be deemed to be a Court of Session.

8. *Sentences by Special Judges.*—A Special Judge may pass any sentence authorised by law.

9. *Review of convictions.*—¹[(1)] If in any proceedings before a Special Judge—

(a) a person convicted is sentenced to death, or to transportation for life, or

(b) though no person is so sentenced, the Special Judge certifies that in his opinion the case has involved questions of special difficulty, whether of law or fact, or is one which for any other reason ought properly to be reviewed,

the proceedings shall be submitted for review by a person appointed in this behalf by the Central Government, which person shall be chosen from the Judges of a High Court in British India, and the decision of that person shall be final.

²[(2)] Where any proceedings are so submitted for review, whether such submission was made before or is made after the commencement of the Enemy Agents (Amendment) Ordinance, 1943 (XV of 1943), the Judge reviewing the proceedings may, and shall be deemed always to have been empowered to, exercise in his discretion any of the powers exercisable under section 439 of the Code of Criminal Procedure, 1898 (V of 1898), by a High Court in the case of any proceeding to which the said section 439 refers.

(3) The person appointed under sub-section (1) to review the proceedings of a Special Judge may call for and examine the record of any proceedings before the Special Judge for the purpose of satisfying himself as to the correctness, legality or propriety of any finding, sentence or order recorded or passed and as to the regularity of any proceedings of the Special Judge, and may

¹Re-numbered Enemy Agents (Amdt.) Ordinance, 1943 (15 of 1943).

²Added, *ibid.*

exercise in the case of proceedings the record of which has been so called for any of the powers which would have been exercisable by him in the case of such proceedings had they been submitted to him for review under sub-section (1).]

10. *Hearing of proceedings in camera.*—If, as respects any proceedings before a Special Judge or before a Judge reviewing under section 9 the proceedings of a Special Judge, the Special Judge or reviewing Judge, as the case may be, is satisfied that it is expedient in the interests of the public safety or the defence of British India so to do, such Judge may give directions that throughout or during any part of the proceedings such persons or classes of persons as the Judge may determine shall be excluded.

11. *Limitation on appearance of pleaders.*—(1) In any proceedings before a Special Judge, and in proceedings before a Judge reviewing under section 9 the proceedings of a Special Judge when the reviewing Judge grants permission in this behalf, a person accused of an offence triable under this Ordinance may of right be defended by a pleader, but such pleader shall be a person whose name is entered in a list prepared in this behalf by the Central Government or who is otherwise approved by the Central Government.

(2) A Special Judge, or a Judge reviewing under section 9 the proceedings of a Special Judge, may appoint a pleader whose name is entered in the list referred to in sub-section (1) or who is otherwise approved by the Central Government to defend at any stage of the proceedings a person accused of an offence triable under this Ordinance who has not himself engaged a pleader.

(3) A Special Judge shall not be required to grant an adjournment for the purpose of securing the attendance of a pleader, if in the opinion of the Special Judge such adjournment would cause unreasonable delay in the disposal of the case.

12. *Special rule of evidence.*—Notwithstanding anything contained in the Indian Evidence Act, 1872, (I of 1872), when the statement of any person has been recorded by any Magistrate, such statement may be admitted in evidence in any trial before a Special Judge, if such person is dead or cannot be found or is incapable of giving evidence.

13. *Special rule of procedure.*—(1) When any accused in a trial before a Special Judge has by his voluntary act rendered himself incapable of appearing before the Court, or resists his production before it, or behaves before it in a persistently disorderly manner, the Court may, at any stage of the trial, by order in writing, made after such inquiry as it may think fit, dispense with the attendance of such accused for such period as it may think fit and proceed with the trial in his absence.

(2) Where a plea is required in answer to a charge from an accused whose attendance has been dispensed with under sub-section (1), such accused shall be deemed not to plead guilty.

(3) An order under sub-section (1) dispensing with the attendance of an accused shall not affect his right of being represented by a pleader at any stage of the trial, or being present in person, if he has become capable of appearing, or appears in Court and undertakes to behave in an orderly manner.

(4) Notwithstanding anything contained in the Code of Criminal Procedure, 1898 (V of 1898), no finding, sentence or order passed in a trial before a Special Judge shall be held to be illegal by reason of any omission or irregularity whatsoever arising from the absence of any or all of the accused whose attendance has been dispensed with under sub-section (1).

14. *Exclusion of interference of other Courts.*—Notwithstanding the provisions of the Code of Criminal Procedure, 1898 (V of 1898), or of any other law for the time being in force, or of anything having the force of law by whatsoever

authority made or done, there shall be no appeal from any order or sentence made or passed by a Special Judge or a reviewing Judge under this Ordinance and, save as provided in this Ordinance, no Court shall have authority to revise such order or sentence or to transfer any case from the Court of a Special Judge, or to make any order under section 491 of the Code of Criminal Procedure, 1898 (V of 1898), or have any jurisdiction of any kind in respect of any proceedings under this Ordinance.

15. *Application of ordinary law.*—The provisions of the Code of Criminal Procedure 1898, (V of 1898), and of any other law for the time being in force, in so far as they may be applicable and in so far as they are not inconsistent with the provisions of this Ordinance, shall apply to all matters connected with, arising from, or consequent upon, a trial under this Ordinance.

16. *Disclosure of information relating to proceedings under this Ordinance.*—Any person who, without the previous authorisation of the Central Government, discloses or publishes any information with respect to any proceedings or with respect to any person proceeded against under this Ordinance, shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

17. *Power to make rules.*—The Central Government may make rules providing for any matter necessary to carry into effect the purposes of this Ordinance.

THE INCOME-TAX PROCEEDINGS VALIDITY ORDINANCE, 1943.

Ordinance No. IV of 1943.¹

An Ordinance to establish the validity of certain appointments as Income-tax Officer of, and certain proceedings under the Indian Income-tax Act, 1922, taken by, persons designated as Assistant Income-tax Officers.

(Published in the Gazette of India Extraordinary, dated the 16th January, 1943.)

WHEREAS an emergency has arisen which makes it necessary to establish the validity of certain appointments as Income-tax Officer of, and certain proceedings under the Indian Income-tax Act, 1922, (XI of 1922), taken by, persons designated as Assistant Income-tax Officers ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Income-tax Proceedings Validity Ordinance, 1943.

(2) It shall come into force at once.

2. *Validity of appointments as Income-tax Officer of Assistant Income-tax Officers and of proceedings taken by them.*—Where, whether before or after the commencement of this Ordinance, any person designated as an Assistant Income-tax Officer has been appointed to be or to discharge the functions of an Income-tax Officer for any of the purposes of the Indian Income-tax Act, 1922, (XI of 1922), and where, whether before or after the commencement of this Ordinance, a person designated as an Assistant Income-tax Officer,

¹Applied to the Darjeeling Dist. and the partially excluded areas of the Mymensingh Dist., with certain modification with effect from 15th April 1943, see Ben. Govt. Notfn. No. 533-A.R., dated the 8th April 1943.

appointed to be or to discharge the functions of an Income-tax Officer, has given or served any notice or taken any action whatsoever under the said Act for the purpose of or in connection with the making of an assessment under the said Act, such person shall be deemed to be and always to have been validly appointed as an Income-tax Officer for the purposes of the said Act, and no act purporting to have been done by such person as an Income-tax Officer, and no notice purporting to have been given or served by such person as an Income-tax Officer shall be called in question merely on the ground of any irregularity or defect in the manner of his appointment as an Income-tax Officer.

THE INDIAN STANDARD TIME (INTERPRETATION OF REFERENCES) ORDINANCE, 1943.

Ordinance No. VI of 1943.¹

An Ordinance to provide for the interpretation in enactments in force in British India of references to Indian Standard Time.

(Published in the Gazette of India Extraordinary, dated the 20th January, 1943.)

WHEREAS an emergency has arisen which makes it necessary to provide for the interpretation in enactments in force in British India of references to Indian Standard Time ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Indian Standard Time (Interpretation of References) Ordinance, 1943.

(2) It shall come into force at once.

2. *Interpretation of references to Indian Standard Time.*—While any order of the Central Government is in force fixing Indian Standard Time by reference to Greenwich Mean Time as being in advance of Greenwich Mean Time by an interval other than five and one-half hours, any reference in any enactment in force in British India to Indian Standard Time shall, notwithstanding that such reference may define Indian Standard Time as being five and one-half hours in advance of Greenwich Mean Time, be interpreted as a reference to Indian Standard Time as fixed for the time being by the order of the Central Government.

¹Applied to the Darjeeling Dist. and the partially excluded areas of the Mymensingh Dist., with effect from 8th April 1943, see Ben. Govt. Notfn. No. 1412-P., dated the 27th March 1943.

THE RESERVE BANK OF INDIA (GOVERNOR'S POWERS AND FUNCTIONS) ORDINANCE, 1943.Ordinance No. XII of 1943.¹

An Ordinance to provide temporarily for the exercise of the powers and functions vested in the Governor of the Reserve Bank of India.

(Published in the Gazette of India Extraordinary, dated the 22nd February, 1943.)

WHEREAS an emergency has arisen which makes it necessary to provide temporarily for the exercise of the powers and functions vested in the Governor of the Reserve Bank of India ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Reserve Bank of India (Governor's Powers and Functions) Ordinance, 1943.

(2) It shall come into force at once.

2. *Powers and functions of Governor of Reserve Bank of India to be exercisable by Deputy Governor of the Bank.*—From the time at which a vacancy occurred in the post of the Governor of the Reserve Bank of India and until a new Governor is appointed, any power or function which the Governor of the Reserve Bank of India is authorised or required to exercise by or under the Reserve Bank of India Act, 1934 (II of 1934), or by or under any other law for the time being in force may be lawfully exercised by Chintaman Dwarkanath Deshmukh, Esquire, Deputy Governor of the Reserve Bank of India, or any person who officiates for or succeeds him in that post.

THE ESSENTIAL SERVICES (TELEPHONE EMPLOYEES) ORDINANCE, 1943.Ordinance No. XIII of 1943.²

An Ordinance to secure the continuance in employment of certain persons employed in connection with the maintenance, working and management of telephonic communications in British India.

(Published in the Gazette of India Extraordinary, dated the 16th March, 1943.)

WHEREAS an emergency has arisen which makes it necessary to secure the continuance in employment of certain persons employed in connection with the maintenance, working and management of telephonic communications in British India ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Essential Services (Telephone Employees) Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

¹Applied to the Darjeeling Dist. and the partially excluded areas of the Mymensingh Dist., with effect from 22nd February 1943, see Ben. Govt. Notfn. No. 1095 Com., dated the 23rd March 1943 ; to the Chittagong Hill-tracts, with effect from 22nd February 1943, see Ben. Govt. Notfn. No. 387-S., dated the 25th March 1943.

²Applied to the Darjeeling Dist., and the partially excluded areas of the Mymensingh Dist., with effect from 31st March 1943, see Ben. Govt. Notfn. No. 154-Com. (C.D.), dated the 10th May 1943.

2. *Prohibition of abandonment of certain employments.*—Any person engaged in employment under the Bengal Telephone Corporation, Limited, the Bombay Telephone Company, Limited, or the Madras Telephone Company, Limited, on the 31st day of March, 1943, shall, unless the Central Government has before that date intimated that his services will not be required, be deemed to have been taken into employment under the Crown immediately before the 1st day of April 1943, and thereupon the provisions of the Essential Services (Maintenance) Ordinance, 1941 (XI of 1941), with respect to employment under the Crown shall apply to such person.

THE DEFENCE OF INDIA (AMENDMENT) ORDINANCE, 1943.

Ordinance No. XIV of 1943.¹

An Ordinance further to amend the Defence of India Act, 1939.

(Published in the Gazette of India Extraordinary, dated the 27th April, 1943.)

WHEREAS an emergency has arisen which makes it necessary further to amend the Defence of India Act, 1939 (XXXV of 1939), for the purpose hereinafter appearing ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Defence of India (Amendment) Ordinance, 1943.

(2) It shall come into force at once.

2. *Substitution of new clause for clause (x) of section 2(2), Act XXXV of 1939.*—For clause (x) of sub-section (2) of section 2 of the Defence of India Act, 1939 (XXXV of 1939), the following clause shall be substituted, and shall be deemed always to have been substituted, namely :—

“(x) the apprehension and detention in custody of any person whom the authority empowered by the rules to apprehend or detain as the case may be suspects on grounds appearing to such authority to be reasonable, of being of hostile origin, or of having acted, acting, being about to act, or being likely to act in a manner prejudicial to the public safety or interest, the defence of British India, the maintenance of public order, His Majesty's relations with foreign powers or Indian States, the maintenance of peaceful conditions in tribal areas or the efficient prosecution of the war, or with respect to whom such authority is satisfied that his apprehension and detention are necessary for the purpose of preventing him from acting in any such prejudicial manner, the prohibition of such person from entering or residing or remaining in any area, and the compelling of such person to reside and remain in any area, or to do or abstain from doing any thing ;”

3. *Validity of orders made under rule 26, Defence of India Rules.*—For the removal of doubts it is hereby enacted that no order heretofore made against any person under rule 26 of the Defence of India Rules shall be deemed to be invalid or shall be called in question on the ground merely that the said rule purported to confer powers in excess of the powers that might at the time the said rule was made be lawfully conferred by a rule made or deemed to have been made under section 2 of the Defence of India Act, 1939.

¹Applied to Br. Baluchistan, see Notfn. No. 30-W., dated the 4th May 1943, and to the Chittagong Hill tracts, see Ben. Govt. Notfn. No. 76-S., dated the 21st May 1943.

THE EXCESS PROFITS TAX ORDINANCE, 1943.

Ordinance No. XVI of 1943.¹

An Ordinance to make certain provisions in connection with the tax on excess profits.

(Published in the Gazette of India Extraordinary, dated the 17th May, 1943.)

WHEREAS an emergency has arisen which renders it necessary to make certain provisions in connection with the tax on excess profits :

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5. c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Excess Profits Tax Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Deposits in connection with payments of excess profits tax.*—(1) When excess profits tax charged under the provisions of the Excess Profits Tax Act, 1940 (XV of 1940), in respect of any chargeable accounting period ending after the 31st day of December 1942, becomes payable under that Act after assessment made under section 12 of that Act, the person liable to pay such excess profits tax shall deposit with the Central Government, before such date as may be specified in a notice in this behalf in such form as may be prescribed by rules made under sub-section (5) issued to him by the Excess Profits Tax Officer, a further sum equal to one-fifth of the amount of the said excess profits tax ; and the provisions of section 10 of the Indian Finance Act, 1942 (XII of 1942), shall, save in so far as they are inconsistent with this section, apply in respect of such deposits as they apply in respect of the voluntary deposits for which provision is made in the said section 10.

(2) The provisions of sub-section (1) of section 10 of the Indian Finance Act, 1942 (XII of 1942), in so far as they enable the making of voluntary deposits, shall cease to have effect except in relation to excess profits tax charged in respect of a chargeable accounting period ending on the 31st day of December, 1942, or earlier.

(3) Any further sum such as is referred to in sub-section (1) deposited in accordance with that sub-section shall be repaid by the Central Government within twelve months of the date of termination of the present hostilities or within twenty-four months of the date on which the deposit was made, whichever is later.

(4) The provisions of law applicable to the payment and recovery of excess profits tax contained in sections 45 and 46 [except sub-section (1) and (1A) thereof] of the Indian Income-tax Act, 1922 (XI of 1922), as applied by section 21 of the Excess Profits Tax Act, 1940 (XV of 1940), shall apply to the payment and recovery of the deposits required by sub-section (1) of this section as if the notice referred to in sub-section (1) of this section were

¹Applied to Br. Baluchistan, see Notfn. No. 32-W., dated the 27th May 1943. Gaz. of India, 1943, Pt. I. p. 560 ; to the Darjeeling Dist. and the partially excluded areas of the Mymensingh Dist., with effect from 17th May 1943, see Ben. Govt. Notfn. No. 821-A.R., dated the 15th June 1943 ; to the partially excluded areas of the Orissa Province, with modification, see Orissa Govt. Notfn. No. 16449-F.(c), dated the 4th August 1943.

a notice of demand under section 29 of the Indian Income-tax Act, 1922 (XI of 1922), and as if a default in making payment of such deposit were a default in making payment of excess profits tax.

(5) The power to make rules for carrying out the purposes of section 10 of the Indian Finance Act, 1942 (XII of 1942) conferred by sub-section (3) of that section shall include a power to make rules for carrying out the purposes of this section.

3. *Insertion of new section 14A in Act XV of 1940.*—After section 14 of the Excess Profits Tax Act, 1940 (XV of 1940), the following section shall be inserted, namely :—

“14A. *Power to make provisional assessments.*—(1) The Excess Profits Tax Officer, before proceeding to make an assessment (in this section referred to as the regular assessment) under section 14, may, at any time after the expiry of the period specified in the notice issued under sub-section (1) of section 13 as that within which the return therein referred to is to be furnished, and whether the return has or has not been furnished, proceed to make in summary manner a provisional assessment of the amount by which the profits of the chargeable accounting period exceed the standard profits, and the amount of excess profits tax payable thereon.

(2) Before making such provisional assessment the Excess Profits Tax Officer shall give notice in the prescribed form to the person on whom assessment is to be made of his intention to do so, and shall with the notice forward a statement of the amount of the proposed assessment, and the said person shall be entitled to deliver to the Excess Profits Tax Officer at any time within fourteen days of receipt of the said notice a statement of his objections, if any, to the amount of the proposed assessment.

(3) On expiry of one month from the date of service of the notice referred to in sub-section (2), or earlier if the assessee agrees to the proposed assessment, the Excess Profits Tax Officer may, after taking into account the objections, if any, made under sub-section (2), make a provisional assessment, and shall furnish a copy of the order of assessment to the assessee :

Provided that assent to the amount of the assessment, or failure to make objection to it, shall in no way prejudice the assessee in relation to the regular assessment.

(4) In making any such provisional assessment the Excess Profits Tax Officer shall make allowances for any deficiencies of profits for previous chargeable accounting periods which are under the provisions of section 7 to be set off against the excess profits of the chargeable accounting period in respect of which the assessment is being made :

Provided that where such deficiencies of profits have not been determined under sub-section (1) of section 14 the Excess Profits Tax Officer shall estimate the amount thereof to the best of his judgment.

(5) There shall be no right of appeal against a provisional assessment made under this section, and it shall, until a regular assessment is made in due course under section 14, determine the amount of excess profits tax due from the assessee.

(6) If, when a regular assessment is made in due course under section 14, the amount of excess profits tax payable thereunder is found to exceed that determined as payable by the provisional assessment, it shall be reduced by the amount determined as payable by the provisional assessment.

(7) If, when a regular assessment is made in due course under section 14, the amount of excess profits tax payable thereunder is found to be less than that determined as payable by the provisional assessment, any excess of tax paid as a result of the provisional assessment shall be refunded to the

assessee together with interest at 5 per cent. per annum calculated from the date of payment of such excess tax to the date of the order of refund, both days inclusive."

4. *Amendment of rule 12, Schedule I, Act XV of 1940.*—In the First Schedule to the Excess Profits Tax Act, 1940, XV of 1940, to rule 12 the following sub-rule shall be added, namely :—

"(3) In relation to chargeable accounting periods ending after the 31st day of December, 1942, the Central Government may make rules for determining the extent to which deductions shall be allowed in respect of bonuses or commissions paid."

5. *Amendment of rule 3, Schedule II, Act XV of 1940.*—In the Second Schedule to the Excess Profits Tax Act, 1940 (XV of 1940), rule 3 shall be re-numbered as sub-rule (1) of rule 3 and—

(a) in the rule as so re-numbered after the words "any moneys" the words "or as regards any chargeable accounting period ending after the 31st day of December, 1942, any trading stock or stock of raw materials" shall be inserted :

(b) the following shall be added as sub-rule (2), namely :—

"(2) The Central Government may make rules defining for the purposes of this rule the principles to be followed in leaving out of account trading stock and stocks of raw materials."

THE ROYAL INDIAN NAVY (POWERS OF COMMAND) ORDINANCE, 1943.

Ordinance No. XVII of 1943.

An Ordinance to provide for the exercise of powers of command over forces of the Royal Indian Navy by Viceroy's commissioned officers when seconded or posted thereto.

(Published in the Gazette of India Extraordinary, dated the 20th May, 1943.)

WHEREAS an emergency has arisen which makes it necessary to provide for the exercise of powers of command over forces of the Royal Indian Navy by Viceroy's commissioned officers when seconded or posted thereto ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Royal Indian Navy (Powers of Command) Ordinance, 1943.

(2) It shall come into force at once.

2. *Powers of Viceroy's commissioned officers when seconded or posted to forces of the Royal Indian Navy.*—Where a Viceroy's commissioned officer subject to the Indian Army Act, 1911 (VIII of 1911), is seconded or posted to the Landing Craft Wing of His Majesty's Royal Indian Navy, then, for the purposes of command and discipline and for the purposes of the provisions of the Naval Discipline Act, as set out in the Schedule to the Indian Navy (Discipline) Act, 1934 (XXXIV of 1934), relating to superior officers, he shall, in relation to forces forming part of the Landing Craft Wing, be treated, and may exercise all such powers (other than powers of punishment) as if he were a naval officer of the rank of Midshipman.

THE MARTIAL LAW (INDEMNITY) ORDINANCE, 1943.**Ordinance No. XVIII of 1943.**

An Ordinance to indemnify servants of the Crown and other persons in respect of acts done under martial law, and to provide for certain other matters in connection with the administration of martial law.

(Published in the Gazette of India Extraordinary, dated the 31st May, 1943.)

WHEREAS an emergency has arisen which makes it necessary to indemnify servants of the Crown and other persons in respect of acts done under martial law, and to provide for certain other matters in connection with the administration of martial law ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor-General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Martial Law (Indemnity) Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Definitions.*—In this Ordinance—

(1) “ martial law area ” means—

(a) with reference to the martial law period beginning on the 1st day of June, 1942, and ending on the 31st day of May, 1943, the area bounded—

(i) on the east by the eastern boundary of the Provinces of Sind and of the Khairpur State from the river Indus at Kashmor to the Jodhpur-Bikaner Railway and including that Railway ;

(ii) on the south by the Jodhpur-Bikaner Railway and the North-Western Railway, and including those Railways, from the eastern boundary of the Province of Sind to the river Indus at Kotri ;

(iii) on the west by the river Indus from Kotri to Kashmor, including that river ; and

(b) with reference to the martial law period beginning on the 29th day of July, 1942, and ending on the 31st day of May, 1943 the aforesaid area together with the area bounded—

(i) on the east by the river Indus from Rohri to Kotri ;

(ii) on the south by a line running due west from the Indus at Kotri so as to include the municipal area of Kotri, to a point five miles therefrom ;

(iii) on the west by a line running from the westernmost point of the aforesaid southern boundary parallel to and five miles distant from the North-Western Railway line passing from Kotri through Larkhana and Sukkur to Habibkhot ;

(iv) on the north by a line running from Habibkhot to Rohri.

(2) “ martial law period ” means with reference to the area described in sub-clause (a) of the foregoing definition the period beginning on the 1st day of June, 1942, and ending on the 31st day of May, 1943, and with reference to the area described in sub-clause (b) of the foregoing definition the period beginning on the 29th day of July, 1942, and ending on the 31st day of May, 1943.

3. *Indemnity of servants of the Crown and other persons for certain acts.*—(1) No suit, prosecution or other legal proceeding shall lie in any court against any servant of the Crown for or on account of or in respect of any act

ordered or done by him or purporting to have been ordered or done by him in the martial law area during the martial law period for the purpose of maintaining or restoring order or of carrying into effect any regulation, order or direction issued by any authority responsible for the administration of martial law in the said area to which he was subordinate; and no suit, prosecution or other legal proceeding shall lie in any court against any other person for or on account of or in respect of any act done or purporting to have been done by him under any order of a servant of the Crown given for any such purpose as aforesaid :

Provided that the act was done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served thereby.

(2) For the purposes of this section it shall be conclusive proof that an act was done under an order of a servant of the Crown given for one of the aforesaid purposes if the Central Government, in the case of an officer employed in connection with the affairs of the Central Government, or the Provincial Government, in the case of an officer employed in connection with the affairs of a Provincial Government, so certifies ; and an act shall be deemed to have been done in good faith and in a reasonable belief that it was necessary for the purpose intended to be served thereby unless the contrary is proved.

4. *Sanction necessary for institution of certain legal proceedings.*—Without prejudice to the operation of any other provision of law for the time being in force requiring any sanction for the institution of legal proceedings, no suit, prosecution or other legal proceeding such as is referred to in section 3 shall be instituted in any court on an allegation that the act complained of was not done in good faith or was not done in a reasonable belief that it was necessary for the purpose intended to be served thereby except with the previous sanction—

(a) where the act complained of was ordered or done by a servant of the Crown employed in connection with the affairs of the Central Government, of the Central Government, and

(b) where the act complained of was ordered or done by a servant of the Crown employed in connection with the affairs of the Provincial Government, of the Provincial Government.

5. *Confirmation of orders for seizure or destruction of property.*—Where in the course of operations conducted in the martial law area during the martial law period property whether movable or immovable has been seized, confiscated, destroyed or damaged by or under the directions of a servant of the Crown acting under martial law, such seizure, confiscation, destruction or damage shall be deemed to have been lawfully ordered and authorised, and no claim shall be maintainable in any court in respect of any such property for the restoration thereof or for compensation for any loss sustained in consequence of the seizure, confiscation, destruction or damage thereof.

6. *Validity of sentences passed by martial law courts.*—All sentences passed during the martial law period by a court or other authority constituted or appointed under martial law and acting in a judicial capacity shall be deemed to have been lawfully passed, and all sentences executed according to the tenor thereof shall be deemed to have been lawfully executed.

7. *Confirmation and continuance of martial law sentences of confinement.*—

(1) Every person confined under and by virtue of a sentence passed by a court or other authority constituted or appointed under martial law and acting in a judicial capacity shall continue liable to confinement until the sentence, reduced by remissions, if any, earned under the rules applicable to the serving of such sentence, is served, or until he is released by order of the Central Government.

(2) The provisions of Chapter XXIX of the Code of Criminal Procedure, 1898 (V of 1898), shall not apply to any sentence or confinement referred to in this section.

8. *Application of sections 6 and 7 to certain trials under martial law.*—The provisions of sections 6 and 7 apply to sentences passed during the martial law period by a court or other authority constituted or appointed under martial law notwithstanding that such court or authority held the whole or a part of its sittings outside the martial law area, or notwithstanding that the offence or a part of the offences for which the accused person was tried and convicted was committed before the beginning of the martial law period.

9. *Saving.*—Nothing in this Ordinance shall prevent the institution of proceedings by or on behalf of Government against any person in respect of any matter whatsoever.

THE SPECIAL CRIMINAL COURTS (REPEAL) ORDINANCE, 1943.

Ordinance No. XIX of 1943.¹

An Ordinance to repeal the Special Criminal Courts Ordinance, 1942, and to provide for certain matters in connection with such repeal.

(Published in the Gazette of India Extraordinary, dated the 5th June, 1943.)

WHEREAS an emergency has arisen which makes it necessary to repeal the Special Criminal Courts Ordinance, 1942 (II of 1942), and to provide for certain matters in connection with such repeal ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short Title and commencement.*—(1) This Ordinance may be called the Special Criminal Courts (Repeal) Ordinance, 1943.

(2) It shall come into force at once.

2. *Repeal of Ordinance II of 1942.*—The Special Criminal Courts Ordinance, 1942 (hereinafter referred to as the said Ordinance) is hereby repealed.

3. *Confirmation and continuance, subject to appeal, of sentences.*—(1) Any sentence passed by a Special Judge, a Special Magistrate or a Summary Court in exercise of jurisdiction conferred or purporting to have been conferred by or under the said Ordinance shall have effect, and subject to the succeeding provisions of this section, shall continue to have effect, as if the trial at which it was passed had been held in accordance with the Code of Criminal Procedure, 1898 (V of 1898), by a Sessions Judge, an Assistant Sessions Judge or a Magistrate of the first class respectively, exercising competent jurisdiction under the said Code :

²[Provided that in respect of any such sentence as aforesaid passed in a Presidency-town, the reference in this sub-section to Courts established under

¹Applied to the Chittagong Hill-tracts, with modifications, with effect from 1st July 1943, in so far as it is not inconsistent with the Chittagong Hill-tracts Regulation 1900, or any rules for the time being in force thereunder, see Ben. Govt. Notfn. No. 181-S., dated the 26th June 1943 ; to the Darjeeling Dist. and the partially excluded areas of the Mymensingh Dist., with modifications, with effect from 1st July 1943, see Ben. Govt. Notfn. No. 7916-Def., dated the 30th June 1943.

²Added, Special Criminal Courts (Repeal) Amdt. Ordinance, 1943 (26 of 1943).

the said Code shall be construed as a reference to the Court in the Presidency-town competent in law to have passed the sentence.]

(2) Notwithstanding anything contained in any other law, any such sentence as is referred to in sub-section (1) shall, whether or not the proceedings in which the sentence was passed were submitted for review under section 8, and whether or not the sentence was subject of an appeal under section 13 or section 19, of the said Ordinance, be subject to such rights of appeal as would have accrued, and to such powers of revision as would have been exercisable under the said Code if the sentence had at a trial so held been passed on the date of the commencement of this Ordinance ; ¹[or in respect of a sentence passed in a Presidency-town, on the date of the commencement of the Special Criminal Courts (Repeal) Amendment Ordinance, 1943 (XXVI of 1943) :

Provided that in respect of any such sentence as aforesaid passed in a Presidency-town, which sentence would, if it had been passed in a sessions division outside the Presidency-town, have had effect as if passed by a Sessions Judge or an Assistant Sessions Judge, the convicted person shall have a right of appeal to the High Court in the same manner as if the Court competent in law to have passed the sentence had been the Court of Session in a sessions division outside the Presidency-town :]

²[Provided further that notwithstanding anything contained in section 418 of the Code of Criminal Procedure, 1898 (V of 1898), an appeal against any such sentence as aforesaid shall lie on a matter of fact as well as a matter of law.]

(3) Where any such sentence as aforesaid has been altered in the course of review or on appeal under the said Ordinance, the sentence as so altered shall for the purposes of this section be deemed to have been passed by the Court which passed the original sentence.

4. *Disposal of pending cases.*—Where the trial of any case pending before a Court constituted under the said Ordinance has not concluded before the date of the commencement of this Ordinance, the proceedings of such Court in the case shall be void ; and the case shall be deemed to be transferred, in a Presidency-town to the Chief Presidency Magistrate, or elsewhere to the Sub-Divisional Magistrate, ¹[if there is one, or if there is not, to the District Magistrate], who may either—

(i) inquire into or try the case himself, or

(ii) transfer the case for inquiry or trial to any Magistrate subordinate to him,—

in accordance with the Code of Criminal Procedure, 1898 (V of 1898).

5. *Indemnity.*—No suit, prosecution or other legal proceedings shall lie in any Court against any servant of the Crown for or on account of or in respect of any sentence passed or any act ordered or done by him whether in exercise of any jurisdiction or power conferred or purporting to have been conferred on him by or under the said Ordinance, or in carrying out any sentence passed by any Court in exercise of any such jurisdiction as aforesaid.

¹Added, Special Criminal Courts (Repeal) Amdt. Ordinance, 1943 (26 of 1943).

²Added, Special Criminal Courts (Repeal) Second Amdt. Ordinance, 1943 (32 of 1943)

THE RESERVE BANK OF INDIA (LIMITATION OF DIVIDEND) ORDINANCE, 1943.

Ordinance No. XX of 1943.¹

An Ordinance temporarily to limit the rate at which dividend on the share capital of the Reserve Bank of India may be paid by the Bank to shareholders.

(Published in the Gazette of India Extraordinary, dated the 30th June, 1943.)

WHEREAS an emergency has arisen which makes it necessary temporarily to limit the rate at which dividend on the share capital of the Reserve Bank of India may be paid by the Bank to shareholders ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Reserve Bank of India (Limitation of Dividend) Ordinance, 1943.

(2) It shall come into force at once.

2. *Limitation of dividend.*—Notwithstanding the provisions of section 47 of the Reserve Bank of India Act, 1934 (II of 1934) and of the Fourth Schedule to that Act, the aggregate of the rates at which payment of the cumulative dividend and the additional dividend payable to shareholders of the Bank under the said provisions is made shall not, so long as this Ordinance remains in force, exceed four per cent. per annum on the share capital of the Bank ; and the balance of the surplus of the net annual profits of the Bank shall be paid to the Central Government.

THE PAROLE CENTRES ORDINANCE, 1943.

Ordinance No. XXI of 1943.²

An Ordinance to provide for the maintenance and control of foreigners required to reside in parole centres.

(Published in the Gazette of India Extraordinary, dated the 2nd July, 1943.)

WHEREAS an emergency has arisen which makes it necessary to provide for the maintenance and control of foreigners required to reside in parole centres ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Parole Centres Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

¹Applied to the Chittagong Hill-tracts, with effect from 22nd July 1943, see Ben. Govt. Notfn. No. 118-S., dated the 19th July 1943, and to the Darjeeling Dist. and the partially excluded areas of the Mymensingh Dist., with effect from 5th August 1943, see Ben. Govt. Notfn. No. 2646-Com., dated the 28th July 1943.

²Applied to the Chittagong Hill-tracts, with effect from 29th July 1943, see Ben. Govt. Notfn. No. 124-S., dated the 24th July 1943.

2. *Maintenance and control of foreigners in parole centres.*—Any foreigner in respect of whom there is in force an order under clause (e) of sub-section (2) of section 3 of the Foreigners Act, 1940 (II of 1940), requiring him to reside in a place set apart for the residence under supervision of a number of foreigners, shall while residing therein be subject to such conditions as to maintenance, discipline and the punishment of offences and breaches of discipline as the Central Government may from time to time by order determine.

3. *Application of Act II of 1940 not barred.*—The provisions of this Ordinance shall be in addition to, and not in derogation of, the provisions of the Foreigners Act, 1940.

THE SPECIAL POLICE ESTABLISHMENT (WAR DEPARTMENT) ORDINANCE, 1943.

Ordinance No. XXII of 1943.¹

An Ordinance to constitute a special police force for the investigation of

- certain offences committed in connection with Departments of the Central Government, with power to investigate such offences wherever committed in British India and to provide for the superintendence and administration of the said force.

(Published in the Gazette of India Extraordinary, dated the 12th July, 1943.)

WHEREAS an emergency has arisen which makes it necessary to constitute a special police force for the investigation of certain offences committed in connection with Departments of the Central Government, with power to investigate such offences wherever committed in British India; and to provide for the superintendence and administration of the said force;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5. c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Special Police Establishment (War Department) Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Constitution and powers of Special Police Establishment (War Department).*—(1) The Central Government may constitute a police force to be called the Special Police Establishment (War Department) to exercise throughout British India the powers and jurisdiction exercisable in a Province by members of the police force of the Province.

(2) Subject to any orders which the Central Government may make in this behalf, members of the said Police Establishment shall have throughout British India, in relation to the investigation of offences made over to them for investigation under this Ordinance and to the arrest of persons concerned in such offences, all the powers, duties, privileges and liabilities which police officers of a Province have in connection with the investigation of offences committed in the Province.

¹ Applied to Br. Baluchistan. see Notfn. No. 38-W. dated the 27th July 1943. Gaz. of India, 1943, Pt. I, p. 816: to the Chittagong Hill-tracts, with effect from 25th November 1943. see Ben. Govt. Notfn. No. 222-S., dated the 22nd November 1943 and to the Darjeeling Dist. and the partially excluded areas of the Mymensingh Dist. with effect from 7th October 1943. see Ben. Govt. Notfn. No. 8029-P¹ dated the 24th September 1943.

(3) Any member of the said Police Establishment of or above the rank of Sub-Inspector may, subject to any orders which the Central Government may make in this behalf, exercise anywhere in British India any of the powers of the officer-in-charge of a police station in the area in which he is for the time being, and when so exercising any such powers shall, subject to any such order as aforesaid, be deemed to be an officer-in-charge of a police station, discharging the functions of such an officer within the limits of his station.

3. *Offences to be investigated by Special Police Establishment.*—The Central Government may by general or special order specify the offences or classes of offences committed in connection with Departments of the Central Government which are to be investigated by the Special Police Establishment (War Department), or may direct any particular offence committed in connection with a Department of the Central Government to be so investigated.

4. *Superintendence and administration of Special Police Establishment.*—

(1) The superintendence of the Special Police Establishment (War Department) shall vest in the Central Government.

(2) The administration of the Special Police Establishment (War Department) shall vest in an officer appointed in this behalf by the Central Government, who shall exercise in respect of the said Police Establishment such of the powers exercisable by an Inspector General of Police in respect of the police force in a Province as the Central Government may specify in this behalf.

THE DISCIPLINE OF SEAMEN ORDINANCE, 1943.

Ordinance No. XXIV of 1943.¹

An Ordinance to make certain provisions relating to the discipline of seamen.

(Published in the Gazette of India Extraordinary, dated the 15th July, 1943.)

WHEREAS an emergency has arisen which renders it necessary to make certain provisions relating to the discipline of seamen;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Discipline of Seamen Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Definitions.*—In this Ordinance—

(a) “authorised officer” means any one of the following, namely:—

the master of a ship, any mate of a ship, any person having the management of a ship, any police officer not below the rank of Sub-Inspector, any commissioned officer in His Majesty’s forces, and any Shipping Master within the meaning of section 6 of the Indian Merchant Shipping Act, 1923 (XXI of 1923);

(b) “ship to which this Ordinance applies” means—

(i) any ship belonging to His Majesty, or any ship, whether British or foreign chartered or requisitioned by or on behalf of His Majesty, or any ship registered in British India under the provisions of the Merchant Shipping Act, 1894 (57 & 58 Viet., c. 60);

¹Applied to Br. Baluchistan, see Notification No. 40-W., dated the 16th August 1943. Gazette of India, 1943, Pt. I, p. 916.
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(ii) any ship in respect of which there is for the time being in force a pass granted in pursuance of section 23 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60) ;

(iii) any ship in respect of which there is for the time being in force a licence granted in pursuance of an order made under rule 65 of the Defence of India Rules.

3. *Absence without leave, desertion and failure to join ship.*—(1) Whoever being lawfully engaged to serve on board any ship to which this Ordinance applies—

(a) neglects or refuses without reasonable cause to join his ship or to proceed to sea in his ship, or

(b) deserts or is absent without leave from his ship, or

(c) is absent without leave from his duty at any time

shall be punishable with imprisonment for a term which may extend to six months, or with fine which may extend to the amount of two months pay, or with both.

(2) Nothing in this section shall be taken to prejudice the provisions of section 221 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60) or section 100 of the Indian Merchant Shipping Act, 1923 (XXI of 1923), relating to forfeiture of effects or wages for desertion or absence without leave.

4. *Drunkenness when joining or whilst on board ship.*—Whoever being lawfully engaged to serve on board any ship to which this Ordinance applies joins his ship, or is, whilst on board his ship, in a state of drunkenness so that the performance of his duties or the navigation of the ship is thereby impeded shall be punishable with imprisonment for a term which may extend to three months, or with fine which may extend to the amount of one month's pay, or with both.

5. *Conveyance of deserter on board ship.*—(1) Where an authorised officer has reason to believe that any person has, in British India, contravened the provisions of section 3, that person may be conveyed on board his ship by or under the direction of that officer.

(2) This section shall, in relation to ships to which this Ordinance applies, have effect in the case of a British ship in substitution for the provisions of section 222 of the Merchant Shipping Act, 1894 (57 & 58 Vict., c. 60) or sub-sections (1) to (4) of section 101 of the Indian Merchant Shipping Act, 1923 (XXI of 1923), as the case may be.

THE WAR RISKS (INLAND VESSELS) INSURANCE ORDINANCE, 1943.

Ordinance No. XXV of 1943.¹

An Ordinance to make provision for the insurance of inland vessels against war risks and to make certain amendments in the War Risks (Factories) Insurance Ordinance, 1942, and the War Risks (Goods) Insurance Ordinance, 1940.

(Published in the Gazette of India Extraordinary, dated the 17th July, 1943.)

WHEREAS an emergency has arisen which renders it necessary to make provision for the insurance of inland vessels against war risks and to make

¹Applied to Br. Baluchistan, see Notification No. 39-W., dated the 2nd August 1943, Gazette of India, 1943, Pt. I, p. 864, and to the partially excluded areas in Orissa Province, see Orissa Government Notification No. 25471-Com. (c), dated the 15th November 1943.

certain amendments in the War Risks (Factories) Insurance Ordinance, 1942 (XII of 1942), and the War Risks (Goods) Insurance Ordinance, 1940 (IX of 1940);

NOW THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2) the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the War Risks (Inland Vessels) Insurance Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Interpretation.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “inland vessel” means a vessel not ordinarily plying outside the limits of the territorial waters surrounding British India;

(b) “vessel” means a vessel the value of which including the hull, machinery and fittings but excluding cargo, fuel and stores carried for the use of the crew, as ascertained for the purpose of insurance under the War Risks (Factories) Insurance Scheme, exceeds one thousand rupees, propelled wholly or in part by steam, electrical or mechanical power, or adapted for towing by a vessel so propelled, and includes any such vessel while used as a place of habitation or for storage of goods but does not include a vessel of the type commonly called country craft.

3. *Insurance of inland vessels.*—(1) Subject to the provisions of this Ordinance the provisions of the War Risks (Factories) Insurance Ordinance, 1942 (XII of 1942), and of the War Risks (Factories) Insurance Scheme made thereunder shall extend and shall so far they are applicable apply in the same manner as they apply to the insurance of property insurable under the said Ordinance in relation to a factory, to the insurance against war risks of inland vessels (including the hull, machinery and fittings thereof, fuel carried therein, and stores carried therein for the use of the crew), the property of any trading corporation or body of Port Trustees or Commissioners specified in this behalf by the Central Government, where such vessels, fuel and stores are not for the time being plant or materials insurable in relation to a factory under the said Ordinance and Scheme, or goods insurable under the War Risks (Goods) Insurance Scheme made under the War Risks (Goods) Insurance Ordinance, 1940 (IX of 1940).

(2) In the application of the War Risks (Factories) Insurance Ordinance, 1942 (XII of 1942), and the War Risks (Factories) Insurance Scheme made thereunder to the insurance of inland vessels—

(a) the obligation imposed by sub-section (1) of section 5 of the said Ordinance on the owner of a factory shall, in the case of a trading corporation or body of Port Trustees or Commissioners whose inland vessels are insurable under the said Ordinance and Scheme, be an obligation imposed on the trading corporation or Port Trustees or Commissioners to take out, by such date as may be specified in this behalf by the Central Government by notification in the official Gazette, a policy of insurance against war risks issued in accordance with the Scheme whereby it is insured in respect of all inland vessels (including fuel carried by them and stores carried by them for the use of the crew) owned by it for a sum not less than the insurable value of such vessels, fuel and stores; and this obligation shall in the case of a trading corporation incorporated outside British India rest upon the manager of the principal place of business in British India of the corporation;

(b) the prohibition contained in sub-section (1) of section 6 of the said Ordinance shall after the commencement of this Ordinance be deemed to include a prohibition of carrying on the business of insuring inland vessels in British India against war risks for insurance against which provision is made under the said Scheme;

(c) sub-section (2) of section 3 of the said Ordinance shall be interpreted as authorising the Scheme to provide for the undertaking by the Central Government of its liabilities in relation to the insurance of inland vessels as from a date anterior to the commencement of this Ordinance;

(d) nothing in the said Ordinance shall prevent the fixing of a rate of premium under or the prescription of a period for policies issued in connection with the insurance of inland vessels different from any rate fixed under or any periods prescribed for policies issued in connection with the insurance of property appertaining to a factory.

4. *Amendment of section 15, Ordinance XII of 1942.*—In clause (b) of sub-section (2) of section 15 of the War Risks (Factories) Insurance Ordinance, 1942 (XII of 1942), for the words “and machinery” in both places where they occur, the words “machinery and materials” shall be substituted.

5. *Amendment of section 16, Ordinance XII of 1942.*—In sub-section (2) of section 16 of the War Risks (Factories) Insurance Ordinance, 1942 (XII of 1942), after the word “notification”, where it occurs for the second and third time, the words “or order” shall be inserted.

6. *Amendment of the Schedule to Ordinance XII of 1942.*—In the Schedule to the War Risks (Factories) Insurance Ordinance, 1942 (XII of 1942), after item 13, the following item shall be added, namely :—

“14. The Shillong Administered Areas.”

7. *Amendment of the Schedule to Ordinance IX of 1940.*—In the Schedule to the War Risks (Goods) Insurance Ordinance, 1940 (IX of 1940), after item 13, the following item shall be added, namely :—

“14. The Shillong Administered Areas.”

THE ALLIED FORCES (EXEMPTION FROM LOCAL TAXATION) ORDINANCE, 1943.

Ordinance No. XXVIII of 1943.¹

An Ordinance to exempt the members in British India of establishments and forces of certain foreign Powers allied with His Majesty and of certain foreign Authorities from payment of taxes imposed by local authorities.

(Published in the Gazette of India Extraordinary, dated the 4th September 1943.)

WHEREAS an emergency has arisen which makes it necessary to exempt the members in British India of establishments and forces of certain foreign Powers allied with His Majesty and of certain foreign Authorities from payment of taxes imposed by local authorities;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Allied Forces (Exemption from Local Taxation) Ordinance, 1943.

¹Applied to the partially excluded areas in Assam, see Assam Government Notification No. LML-142/43/8, dated the 21st October 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Interpretation.*—In this Ordinance—

(a) “Power to which this Ordinance applies” means a foreign Power allied with His Majesty to which the Allied Forces Ordinance, 1942 (LVI of 1942), is for the time being applicable;

(b) “Authority to which this Ordinance applies” means a foreign Authority recognised by His Majesty as competent to maintain naval, military or air forces for service in association with His Majesty’s forces to which the Allied Forces Ordinance, 1942 (LVI of 1942), is for the time being applicable.

3. *Exemption from taxes imposed by local authorities.*—(1) Notwithstanding anything contained in any enactment for the time being in force, no tax imposed by a Municipal Committee, Cantonment Board or any other local authority whatever shall, except as provided in this Ordinance, be payable by any establishment or naval, military or air force maintained in British India by a Power or Authority to which this Ordinance applies in respect of—

(a) any immovable property in the possession or occupation of, or

(b) any goods the property of, or consigned or under transport for ultimate delivery to, or

(c) any animal, bicycle, motor bicycle, motor car, vessel, vehicle, aircraft or apparatus maintained by and for the purposes of, such establishment or force.

(2) Notwithstanding anything contained in any enactment for the time being in force, no such tax as aforesaid shall, except as provided in this Ordinance, be payable by any member of an establishment or force maintained in British India by a Power or Authority to which this Ordinance applies in respect of any building occupied by him, or in respect of any horse, bicycle, motor bicycle, motor car, or other means of conveyance maintained by him in his capacity as a member of such establishment or force and under authority from a person exercising authority in such establishment or force, or by way of a tax on persons or a requirement to take out a licence for practising a profession, trade or calling.

(3) Nothing in this section shall be deemed to exempt any person from payment of any tax imposed or of that part of any tax which is imposed to cover the cost of specific services rendered to that person by the local authority imposing the tax.

4. *Decision of questions arising under this Ordinance.*—If any question arises whether, or as to the extent to which, any tax is payable as having been imposed to cover the cost of specific services rendered by the local authority imposing the tax or whether in the particular circumstances of any case a particular tax is payable, the decision of the Central Government thereon shall be conclusive.

THE CRIMINAL LAW AMENDMENT ORDINANCE, 1943.

Ordinance No. XXIX of 1943.

An Ordinance to provide for the more speedy trial and more effective punishment of certain offences punishable under the Indian Penal Code.
 (Published in the Gazette of India Extraordinary, dated the 11th September, 1943.)

WHEREAS an emergency has arisen which makes it necessary to provide for the more speedy trial and more effective punishment of certain offences punishable under the Indian Penal Code, (XLV of 1860) ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance:—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Criminal Law Amendment Ordinance, 1943.

(2) It extends to the whole of British India and applies also to British subjects and servants of the Crown in any part of India and to British subjects who are domiciled in any part of India wherever they may be.

(3) It shall come into force at once.

2. *Interpretation.*—In this Ordinance “transport” includes the carriage whether of persons or property of any description by rail, road, air, sea or inland waters.

3. *Constitution of Special Tribunals.*—The Central Government may, by notification in the official Gazette, constitute for the purposes of this Ordinance two Special Tribunals, one to sit at Calcutta and the other at Lahore:

Provided that either such Special Tribunal may, if it is satisfied that it will tend to the general convenience of parties or witnesses in any particular case, sit for the trial of that case in a place other than Calcutta or Lahore.

4. *Composition of Special Tribunals.*—(1) A Special Tribunal constituted under this Ordinance shall consist of three members, of whom one shall be an officer of His Majesty's forces who is a barrister of England or Northern Ireland of at least five years standing or a member of the Faculty of Advocates in Scotland of at least five years standing.

(2) Of the other members each shall be a person who—

(a) is qualified under sub-section (3) of section 220 of the Government of India Act, 1935 (26 Geo. 5, c. 2), for appointment as a Judge of a High Court; or

(b) has for a period of not less than three years exercised, whether continuously or not, the powers under the Code of Criminal Procedure, 1898 (V of 1898), of any one or more of the following, namely, Sessions Judge, Additional Sessions Judge, Chief Presidency Magistrate, Additional Presidency Magistrate;

and at least one shall have the qualification specified in clause (a).

(3) The Central Government shall appoint one of the members qualified under sub-section (2) to be the President of the Special Tribunal.

5. *Cases triable by Special Tribunals.*—(1) The Special Tribunal shall have jurisdiction to try the cases respectively allotted to them in the First Schedule in respect of such of the charges for offences specified in the Second Schedule as may be preferred against the several accused and any such case which is at the commencement of this Ordinance pending before any Court shall be deemed to be transferred from that Court to the Special Tribunal to which it is allotted.

(2) When trying any such case as aforesaid, a Special Tribunal may also try any offence not specified in the Second Schedule which is an offence with which the accused may, under the Code of Criminal Procedure, 1898 (V of 1898), be charged at the same trial.

6. *Procedure and powers of Special Tribunals.*—(1) A Special Tribunal may take cognizance of offences without the accused being committed to it for trial, and in trying accused persons shall follow the procedure prescribed by the Code of Criminal Procedure, 1898 (V of 1898), for the trial of warrant cases by magistrates:

Provided that a Special Tribunal may refuse to summon any witness if satisfied after examination of the accused that the evidence of such witness will

not be material, and shall not be bound to adjourn any trial for any purpose, unless such adjournment is in its opinion necessary in the interests of justice:

Provided further that for the purposes of sub-section (1) of section 356 of the said Code ¹[English shall be deemed to be the language of the Court] and the Tribunal may decide by which one, if any, of its members the evidence of any or all of the witnesses shall be taken down in writing and where under the provisions of that sub-section the evidence of witnesses is taken down under the direction and superintendence of the Tribunal but not by a member thereof, the provisions of sub-section (3) of section 356 shall not apply.

(2) Save as provided in sub-section (1) the provisions of the Code of Criminal Procedure, 1898 (V of 1898), except the provisions of section 196A and of Chapter XXXIII, shall, so far as they are not inconsistent with this Ordinance, apply to proceedings of a Special Tribunal; and for the purposes of the said provisions the Special Tribunal shall be deemed to be a Court of Session, trying cases without a jury, and a person conducting a prosecution before a Special Tribunal shall be deemed to be a Public Prosecutor.

(3) A Special Tribunal shall not, merely by reason of a change in its members, be bound to recall and rehear any witness who has given evidence, and it may act on the evidence already recorded by or produced before it.

(4) In the event of any difference of opinion among the members of a Special Tribunal the opinion of the majority shall prevail.

(5) A Special Tribunal may pass any sentence authorised by law.

7. *Bar of appeals and certain other jurisdiction.*—There shall be no appeal from any order or sentence of a Special Tribunal, and no Court shall have authority to transfer any case from a Special Tribunal or to make any order under section 491 of the Code of Criminal Procedure, 1898 (V of 1898), or, save as provided in section 8, have any jurisdiction of any kind in respect of any proceedings of a Special Tribunal.

8. *Revision.*—The High Court within the local limits of whose jurisdiction the offence charged in a case before a Special Tribunal is alleged to have taken place may, in relation to that case, exercise, so far as they may be applicable, all the powers conferred by Chapter XXXII of the Code of Criminal Procedure, 1898 (V of 1898), on a High Court, as if the Special Tribunal were a Court of Session situate within the local limits of that High Court's jurisdiction.

9. *Special rules of evidence.*—(1) When any person is charged before a Special Tribunal with an offence punishable under section 161 or section 165 of the Indian Penal Code, (XLV of 1860), the fact that such person is in possession, for which he cannot satisfactorily account, of pecuniary resources or property disproportionate to his known sources of income, or that such person has, at or about the time of the offence with which he is charged, obtained an accretion to his pecuniary resources or property for which he cannot satisfactorily account, may be proved and may be taken into consideration by the Special Tribunal as a relevant fact in deciding whether he is or is not guilty of the particular offence with which he is charged.

(2) Where in any trial before a Special Tribunal of an offence punishable under section 161 or section 165 of the Indian Penal Code, (XLV of 1860), it is proved that an accused person has accepted or obtained, or has agreed to accept or attempted to obtain for himself or for any other person, any gratification (other than legal remuneration) or any valuable thing from a person or the agent of a person seeking to obtain facilities for transport or holding or seeking to obtain a contract from His Majesty's Government in the United Kingdom or in any part of His Majesty's dominions, or the Central or a Provincial Government or a department of any such Government or a local authority, or from any person acting on behalf of any such Government or department or authority, it shall be presumed unless the contrary is proved that he accepted

¹Ins. Criminal Law Amendment (Amdg.) Ordinance, 1943 (39 of 1943).

or obtained, or agreed to accept or attempted to obtain, that gratification or that valuable thing as the case may be, as a motive or reward such as is mentioned in section 161, or, as the case may be, without consideration or for a consideration which he knows to be inadequate.

10. *Special provision regarding punishment of offences under section 161, Indian Penal Code.*—When any person charged before a Special Tribunal with an offence punishable under section 161 or section 165 of the Indian Penal Code, (XLV of 1860), is found guilty of that offence, the Special Tribunal shall, notwithstanding anything contained in the said Code, whether or not it imposes a sentence of imprisonment, impose a sentence of fine which shall not be less in amount than the amount or value of any gratification or valuable thing found to have been accepted or obtained by the offender in contravention of the provisions of the said Code.

11. *Power to make rules.*—The Central Government may make rules providing for—

(a) the times at which Special Tribunals may sit;

(b) the procedure to be adopted in the event of any member of a Special Tribunal being prevented from attending throughout the trial of any accused person.

THE FIRST SCHEDULE.

PART I.

Cases for trial by the Tribunal with headquarters at Calcutta.

Name of the accused person or persons.	Offences punishable under the Indian Penal Code charged against the accused.
1. A. K. Mukherjee, Military Contractor, 3, Sunny Park, Calcutta	Sections 161|116, I. P. C.
2. B. Kalicharan, Goods Clerk, Farukhabad, E. I. Railway	
3. Jamadar Sampurna Singh, R.I.A.S.C., Supply Depot, Hastings, Calcutta	Section 161, I. P. C.
4. S. R. Dewar, S. D. O., M. E. S., U. S. A. Works Division, Auckland Place, Calcutta	Section 161, I. P. C.
5. J. N. Mitter, Station Master, Rajbari Railway Station, B. & A. Railway	Section 161, I. P. C.
6. Lieutenant H. T. Huntley, Station Master, Jamalpur, E. I. Railway	Section 161, I. P. C.
7. Rama Nath Gupta, Station Master, Adamdighi, B. N. Railway	Section 161, I. P. C.
8. Lieutenant T. Everson, Carriage Foreman, E. I. Railway, Howrah	Section 161, I. P. C.
9. Tincowri Chattarji, Loader, Goods Shed, Sealdah, B. & A. Railway	Section 161, I. P. C.
10. (1) ¹ [E. A. Greuter, Manager, Siemens	Section 120B read with section 420, I. P. C.
(2) ¹ [N. Mitter]	
(3) E. A. Dorsey	
(4) G. V. Dorsey	
(5) N. Basu	
(6) M. C. Mansukhani	
(7) E. Edwards	
(8) D. A. Basil	
(9) M. R. Sarcar	
(10) D. Mansukhani	
(11) A. F. Mercado (Junior)	
(12) S. N. Saighol	

¹Subst. Criminal Law Amendment (Second Amdg.) Ordinance, 1943 (40 of 1943).

Name of the accused person or persons.	Offences punishable under the Indian Penal Code charged against the accused.
11. Hassan Khan, Station Master, Niwar Railway Station, G. I. P. Railway, Jubbulpore	Section 161, I. P. C.
12. Haralal Bannerjee, Trains and Wagons Clerk, D. T. S. Office, Nainpur, B. N. Railway	Section 161, I. P. C.
13. Sri Veerasamy Naidu, Station Master, Katpadi	Section 161, I. P. C.
14. B. Balnathan, Agent, Messrs. K. P. Ahmed Alladin and Co., Secunderabad	Sections 161|116, I. P. C.
15. Lt. A. E. Wilkins, Hony. A. T. S., Station Superintendent, Sealdah, B. & A. Railway	Section 161, I. P. C.
16. Nanda Lal Chakrabarty, Station Master, Bamandanga, B. & A. Railway	Section 161, I. P. C.
17. Narendra Mohan Das Gupta, Station Master, Panch-bibi Railway Station, B. & A. Railway	Section 161, I. P. C.
18. Lt. D. Moore, Station Master, Burdwan, E. I. Railway	Section 161, I. P. C.
19. D. R. Bose, S. D. O., M. E. S., Khulna	Section 161, I. P. C.
20. Fakhruddin, Manager, Messrs. E. H. Taher & Co. Ltd., 86, Clive Street, Calcutta	Sections 420|511, I. P. C.
21. V. Kanniah Naidu, Assistant Goods Clerk, M. & S. M. Railway, Katpadi, North Arcot District	Section 161, I. P. C.
22. K. S. Chatterji, Assistant Station Master, Bagra Railway Station, G. I. P. Railway	Section 161, I. P. C.
23. Shiva Bhai Naran Das Gajjar, Ticket Collector, Wadiad, B. B. & C. I. Railway	Section 161, I. P. C.
24. Nautamal Venishanker, Station Master, Koth Gangad Station, Ahmedabad District, B., B. & C. I. Railway	Section 161, I. P. C.
25. (1) Sheroo, son Khudadad, Irani, East Street, Poona Cantonment	(1) Section 420, I. P. C. (2) Sections 420|109, I. P. C. (3) Sections 420|120B, I. P. C.]
(2) Mrs. Shirin, Rashid, Widow of Rashid Khudadad, Irani, East Street, Poona Cantonment	
(3) M. K. Irani, son of Khudadad, Irani, East Street, Poona Cantonment	
(4) Naunitrai, son of Amthalal, Bania, Sachapir Street, Poona Cantonment	
(5) Mohan Lal, son of Prem Chand, Vohra, Sachapir Street, Poona Cantonment	
(6) Bhogi Lal, son of Kadhar Lal Gandhi Sachapir Street, Poona Cantonment	
(7) Mansukh Rai, son of Chuni Lal Shah, Jain, Sachapir Street, Poona Cantonment	
(8) Major Hill Murray, Officer-in-charge, Supply Depot, Poona Cantonment	

PART II

Cases for trial by the Tribunal with headquarters at Lahore.

Name of the accused person or persons.	Offences punishable under the Indian Penal Code charged against the accused.
1. Mohd. Shafi, Assistant Transport Officer, Raja Sansi, District Amritsar	Sections 161|116, I. P. C.
2. Ganga Parshad, Examiner, Ordnance Inspection Depot, Sialkot	Section 161, I. P. C.

¹Added, Criminal Law Amdt. (Second Amdg.) Ordinance, 1943 (40 of 1943).

Name of the accused person or persons.

Offences punishable under
the Indian Penal Code
charged against the
accused.

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|---|--|
| 3. 2nd-Lieutenant G. W. Watts, at present employed as an attached officer to the Garrison Engineer, Lahore Division | Section 420, I. P. C. |
| 4. Dewan Chand, Chief Goods Clerk, Okara Railway Station, N. W. Railway | Section 161, I. P. C. |
| 5. Puran Sing, Station Master, Ahmadgarh (Malerkotla State) | Section 161, I. P. C. |
| 6. 2nd-Lieutenant G. W. Watts, at present employed as an attached officer to the Garrison Engineer, Lahore Division | Section 420, I. P. C. |
| 7. 2nd-Lieutenant G. W. Watts, at present employed as an attached officer to the Garrison Engineer, Lahore Division | Section 417, I. P. C. |
| 8. (1) Seth Chand Rattan Moondra, Director, Herman & Mohatta, Ltd., Karachi | (1) Section 120B read with section 420, I. P. C.
(2) Section 420, I. P. C.
(3) Sections 420 109, I. P. C.
(4) Sections 420 511 I. P. C.
(5) Section 161, I. P. C.
(6) Sections 161 109 read with section 34, I. P. C. |
| (2) K. J. Sapra, Engineer, Herman & Mohatta, Ltd., Karachi | |
| (3) Sajjan Mal, employee of Herman & Mohatta, Ltd., Karachi | |
| (4) Lila Dhar, employee of Govind Moti & Co., Karachi | |
| (5) Bhagwandas Bhagehand Hingorani, Contractor, Karachi | |
| (6) Agar Singh Shivji Darbar of Messrs. Govind Moti & Co., Karachi | |
| (7) Virji Mohan of Messrs. Govind Moti & Co., Karachi | |
| (8) Thakursi Moti of Messrs. Govind Moti & Co., Karachi | |
| (9) T. V. Israni, Assistant Garrison Engineer (M. E. S.), Malir | |
| (10) Vin D'Cruze, S. D. O. (M. E. S.) | |
| (11) D. J. Sadarangani, S. D. O. (M. E. S.) | |
| (12) Harrai Sing, ex-Overseer (M. E. S.) | |
| (1) D. H. Daruwala, Contractor, Karachi | (1) Section 120B read with section 420, I. P. C.
(2) Section 420, I. P. C.
(3) Sections 420 109, I. P. C.
(4) Sections 420 511, I. P. C. |
| (2) Natwar Lal, formerly clerk of D. H. Daruwala, Contractor | |
| (3) T. V. Israni, Assistant Garrison Engineer (M. E. S.), Malir | |
| (4) Vin D'Cruze, S. D. O. (M. E. S.) | |
| (5) Kartar Singh, Overseer (M. E. S.) | |
| (1) Seth Chand Rattan Moondra, Director, Herman & Mohatta Ltd., Karachi | (1) Section 120B read with section 420, I. P. C.
(2) Section 420, I. P. C.
(3) Sections 420 109, I. P. C.
(4) Sections 420 511, I. P. C. |
| (2) K. J. Sapra, Engineer, Herman & Mohatta, Ltd., Karachi | |
| (3) Sajjan Mal, employee of Herman & Mohatta, Ltd., Karachi | |
| (4) Lila Dhar, employee of Govind Moti & Co., Karachi | |
| (5) Agar Singh Shivji, Darbar of Messrs. Govind Moti & Co., Karachi | |

(contd. next page).

Name of the accused person or persons.

Offences punishable under
the Indian Penal Code
charged against the
accused.10.—*contd.*

(6) Virji Mohan of Messrs. Govind Moti & Co., Karachi	(5) Section 161, I. P. C.
(7) Thakursi Moti of Messrs. Govind Moti & Co., Karachi	(6) Sections 161|109 read with section 34, I. P. C.
(8) T. V. Israni, Assistant Garrison Engineer (M. E. S.), Malir	
(9) K. J. Kavasji, S. D. O. (M. E. S.)	
(10) V. S. Arora, Overseer (M. E. S.)	
(11) Jagat Rai N. Wazirani, Overseer (M. E. S.)	
11. (1) Agar Singh Shivji, Darbar of Messrs. Govind Moti & Co., Karachi	(1) Section 120B read with section 420, I. P. C.
(2) Virji Mohan of Messrs. Govind Moti & Co., Karachi	(2) Section 420, I. P. C.
(3) Thakursi Moti of Messrs. Govind Moti & Co., Karachi	(3) Sections 420|109, I. P. C.
(4) Lila Dhar, employee of Govind Moti & Co., Karachi	(4) Sections 420|411, I. P. C.
(5) G. J. Daniel, S. D. O. (M. E. S.)	(5) Section 161, I. P. C.
(6) R. T. Jagtiani, Overseer (M. E. S.)	(6) , Sections 161|109, read with section 34, I. P. C.
12. (1) Seth Girdhar Lal, Director, Herman & Mohatta, Ltd., Karachi	(1) Section 120B read with section 420, I. P. C.
(2) Mulk Raj, Overseer, formerly employee of accused No. 1	(2) Section 420, I. P. C.
(3) G. J. Daniel, S. D. O. (M. E. S.)	(3) Sections 420|109, I. P. C.
(4) R. T. Jagtiani, Overseer (M. E. S.)	(4) Sections 420|511, I. P. C.
13. (1) Harbans Lal, Contractor, Karachi	(1) Section 120B read with section 420, I. P. C.
(2) Gaja Dhar, Contractor, Karachi	(2) Section 420, I. P. C.
(3) G. J. Daniel, S. D. O. (M. E. S.)	(3) Sections 420|109, I. P. C.
(4) R. T. Jagtiani, Overseer (M. E. S.)	(4) Sections 420|511, I. P. C.
14. (1) Girdhari Dass Sobhraj, Contractor, Karachi	(1) Section 120B read with section 420, I. P. C.
(2) Murlidhar Sobhraj, Contractor, Karachi	(2) Section 420, I. P. C.
(3) Kundan Dass Dhanraj Mal, Contractor, Shikarpur (Sind)	(3) Sections 420|109, I. P. C.
(4) G. J. Daniel, S. D. O. (M. E. S.)	(4) Sections 420|511, I. P. C.
(5) R. T. Jagtiani, Overseer (M. E. S.)	
15. (1) Cyrus F. Minwala, Contractor, Karachi	(1) Section 120B read with section 420, I. P. C.
(2) Dinshaw Minwala, formerly Manager, Hindustan Sanitary & Drainage Works, Karachi	(2) Section 420, I. P. C.
(3) G. J. Daniel, S. D. O. (M. E. S.)	(3) Sections 420|109, I. P. C.
(4) Kodu Mal, Overseer, (M. E. S.)	(4) Section 120B read with Section 409, I. P. C.

Name of the accused person or persons.	Offences punishable under the Indian Penal Code. charged against the accused.
16. Anand Behari, Assistant Goods Clerk, Thompsonganj, E. I. Railway	Section 161, I. P. C.
17. Ram Parshad Nigam, Control Office, Jhansi	Section 161, I. P. C.
18. Shivkali Goswami, Chief Goods Clerk, Shahjahanpur, E. I. Railway	Section 161, I. P. C.
19. A. Jobe, Assistant Station Master, formerly at Bhaiinda, N. W. Railway	Section 161, I. P. C.
20. A. C. Stringer, Loco Foreman, Lahore	Section 161, I. P. C.
21. Kampta Parshad, Clerk, R. I. Section, O. I. D., Delhi, Fort	Section 161, I. P. C.
22. Nihal Chand, Goods Clerk, Doraha Railway Station, N. W. Railway	Section 161, I. P. C.
23. Harbans Singh, Ticket Collector and in charge of Reservation, Delhi Main Station	Section 161, I. P. C.
24. Kesho Ram, Station Master, Doraha Railway Station, N. W. Railway	Section 161, I. P. C. (1) Sections 161|116, I. P. C. (2) Sections 161|116, read with section, 511 I. P. C.
25. Abdul Hakim Sheikh, Partner of Messrs. A. R. Kalla & Sons, Meerut Cantonment	
26. (1) Sat Narain, employee of Messrs. Panna Lal Durga Pershad, Generalganj, Cawnpore (2) Kali Singh, employee of Messrs. Panna Lal Durga Pershad, Generalganj, Cawnpore	Sections 161|116, I. P. C.
27. Shaukat Ali, Relieving Coaching Clerk, N. W. Railway, Quetta	Section 161, I. P. C.
28. (1) Masud Ahmad Akhtar of Messrs. Saeed Anis & Company, Amritsar (2) Hadi Hussain, employee of Messrs. Saeed Anis & Company, Amritsar	(1) Section 406, I. P. C. (2) Sections 406|109, I. P. C.
29. Mool Chand, Supervisor, Ordnance Clothing Factory, Lahore	Section 161, I. P. C.]

THE SECOND SCHEDULE.

[See section 5 (1).]

Offences triable by Special Tribunals.

1. An offence punishable under section 161 of the Indian Penal Code, when committed by a person being or expecting to be a public servant discharging duties in connection with the provision of facilities for transport to the public or the obtaining of services or goods for or the making or performance of contracts entered into with His Majesty's Government in the United Kingdom or in any part of His Majesty's dominions or the Central or a Provincial Government or a department of any such Government or a local authority or a person acting on behalf of any such Government or department or authority.

2. An offence punishable under section 165 of the Indian Penal Code when committed by a person being a public servant such as is described in the preceding item.

¹Added, Criminal Law Amdt. (Second Amdg.) Ordinance, 1943 (40 of 1943).

3. An offence punishable under section 406 or section 409 of the Indian Penal Code, where the property in respect of which the offence is committed is property entrusted by His Majesty's Government in the United Kingdom or in any part of His Majesty's dominions or the Central or a Provincial Government or a department of any such Government or a local authority or a person acting on behalf of any such Government or department or authority.

4. An offence punishable under section 417 or section 420 of the Indian Penal Code, where the person deceived is His Majesty's Government in the United Kingdom or in any part of His Majesty's dominions or the Central or a Provincial Government or a department of any such Government or a local authority or a person acting on behalf of any such Government or department or authority.

5. Any conspiracy to commit or any attempt to commit or any abetment of any of the aforesaid offences.

THE MILITARY NURSING SERVICES (INDIA) ORDINANCE, 1943.

Ordinance No. XXX of 1943.

An Ordinance to constitute in British India a force to be called the Military Nursing Services (India) as part of the armed forces of the Crown.

(Published in the Gazette of India Extraordinary, dated the 15th September, 1943.)

WHEREAS an emergency has arisen which makes it necessary to provide for the constitution in British India of a force to be called the Military Nursing Services (India) as a part of the armed forces of the Crown ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, application and commencement.*—(1) This Ordinance may be called the Military Nursing Services (India) Ordinance, 1943.

(2) It applies to British subjects in any part of India and to members of the Military Nursing Services (India) wherever they may be.

(3) It shall come into force at once.

2. *Definitions.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “ prescribed ” means prescribed by rules made under this Ordinance ;

(b) “ regulations ” means regulations made under this Ordinance.

3. *Constitution of Military Nursing Services (India).*—(1) There shall be raised and maintained, in the manner hereinafter provided, as part of the armed forces of the Crown and for service with His Majesty's military forces an auxiliary force which shall be designated the Military Nursing Services (India).

(2) The Military Nursing Services (India) shall comprise two corps, namely, the Indian Military Nursing Service and the Army in India Nursing Service Reserve.

4. *Liability of service of members of Military Nursing Services (India).*—

(1) The members of the Indian Military Nursing Service shall be liable for service only with forces and persons subject to the Indian Army Act, 1911 (VIII of 1911).

(2) The Army in India Nursing Service Reserve shall comprise two parts, one consisting of members who have engaged to serve and shall be liable to service only with forces and persons subject to the Army Act (44 and 45 Viet., c. 58), the other consisting of members who have engaged to serve and shall be liable to service only with forces and persons subject to the Indian Army Act, 1911 (VIII of 1911).

5. *Members to be of commissioned rank.*—All members of the Military Nursing Services (India) shall be of commissioned rank and shall be appointed as officers of the Military Nursing Services (India) by the Central Government by notification in the official Gazette.

6. *Eligibility for appointment.*—(1) Any British subject or any subject of an Indian State, if a woman and above the age of twenty-one, shall be eligible for appointment as an officer in the Military Nursing Services (India), and, if she satisfies the prescribed conditions, may be appointed thereto in the manner laid down in section 5.

(2) Every person so appointed shall be subject to this Ordinance and to the rules and regulations made thereunder.

7. *Dismissal from Military Nursing Services (India).*—The Central Government, or an authority empowered by the Central Government in this behalf, or the Commander-in-Chief of His Majesty's Forces in India, may dismiss any officer from the Military Nursing Services (India).

8. *Liability to undergo training and perform duties.*—Subject to the provisions of this Ordinance, a member of the Military Nursing Services (India) shall be bound to undergo such training and in such manner and to perform such duties in connection with His Majesty's military forces as may be laid down by regulations.

9. *Application of Army Act and Indian Army Act, 1911, to members of Military Nursing Services (India).*—(1) The provisions of the Indian Army Act, 1911 (VIII of 1911), shall, to such extent and subject to such adaptations and modifications as may be prescribed, apply to members of the Indian Military Nursing Service and to those members of the Army in India Nursing Service Reserve who have engaged to serve with forces and persons subject to the Indian Army Act, 1911 (VIII of 1911), as they apply to Indian commissioned officers, unless they are clearly inapplicable to women.

(2) The provisions of the Army Act (44 and 45 Viet., c. 58) shall, to such extent and subject to such adaptations and modifications as may be prescribed, apply to those members of the Army in India Nursing Service Reserve who have engaged to serve with forces and persons subject to the Army Act as they apply to officers of the regular forces, unless they are clearly inapplicable to women.

10. *Power to make rules.*—(1) The Central Government may, by notification in the official Gazette, make rules to carry out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power, rules may be made under this section—

(a) providing for the medical examination of persons offering themselves for appointment in the Military Nursing Services (India) ;

(b) providing for any matter which under this Ordinance is to be or may be prescribed.

11. *Power to make regulations.*—The Commander-in-Chief of His Majesty's Forces in India may make regulations consistent with this Ordinance and the rules made thereunder, providing for all matters to be laid down by regulations, and generally for all details connected with the organisation, pay, allowances, duties, discipline, training, clothing, equipment and leave of members of the Military Nursing Services (India).

THE FACTORIES (CONTROL OF DISMANTLING) ORDINANCE, 1943.**Ordinance No. XXXI of 1943.¹**

An Ordinance to control the dismantling of factories.

(Published in the Gazette of India Extraordinary, dated the 15th September, 1943.)

WHEREAS an emergency has arisen which makes it necessary to control the dismantling of factories ;

Now, **THEREFORE**, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. Short title, extent and commencement.—(1) This Ordinance may be called the Factories (Control of Dismantling) Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. Definitions.—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “ to dismantle ” a factory means to remove from its position the machinery or part of the machinery of the factory, where by such removal the factory is rendered wholly or partly useless for its purpose ; but does not include any temporary removal of the machinery or part of the machinery for purposes such as adjustment, cleaning and repairs ;

(b) “ factory ” means a factory as defined in clause (j) of section 2 of the Factories Act, 1934 (XXV of 1934), but includes also any premises which were at any time after the commencement of this Ordinance a factory as so defined ;

(c) “ machinery ” has the meaning assigned to that word in clause (k) of section 2 of the Factories Act, 1934 (XXV of 1934).

3. Dismantling a factory.—(1) No person shall, without the written permission of the Central Government or of an officer authorised in this behalf by the Central Government, dismantle any factory or remove from a factory any spare parts kept for maintaining the machinery of the factory in order.

(2) Whoever contravenes any of the provisions of sub-section (1) shall be punished with imprisonment which may extend to two years or with fine or with both.

4. Offences by corporations.—If the person contravening any of the provisions of sub-section (1) of section 3 is a company or other corporate body, every director, manager or secretary or other officer or agent thereof, shall, unless he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention, be deemed to be guilty of such contravention.

5. Powers of entry, examination, taking evidence, etc.—(1) Subject to any rules made by the Central Government, any officer authorised in this behalf by that Government, may, if he has reason to believe that any person has contravened any of the provisions of sub-section (1) of section 3 within the local limits for which he is so authorised,—

(a) enter with such assistants (if any), being persons in the service of the Crown as he thinks fit, any place ;

¹Applied to the Darjeeling Dist. and the partially excluded areas of the Mymensingh Dist., with effect from 28th October 1943, see Ben. Govt. Notfn. No. 3466-Com., dated the 20th October 1943.

(b) make such examination of the place and of any machinery, books or documents therein and take on the spot or otherwise such evidence of any persons as he may deem necessary for carrying out the purposes of this Ordinance ; and

(c) exercise such other powers as may be necessary for carrying out the purposes of this Ordinance :

Provided that no one shall be required under this section to answer any question or give any evidence tending to criminate himself.

(2) Whoever wilfully obstructs an officer authorised under sub-section (1) in the exercise of any power conferred by that sub-section, or fails to produce on demand any book or document in his custody or to comply with any demand for information, or knowingly or recklessly makes to such officer a statement false in a material particular shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

6. *Cognizance of offences.*—No prosecution for any offence under this Ordinance shall be instituted except by or with the previous sanction of the Central Government or the officer authorised by the Central Government for the purposes of sub-section (1) of section 3.

7. *Bar of legal proceedings.*—No suit, prosecution, or other legal proceeding shall lie against any person for anything which is in good faith done, or intended to be done, under this Ordinance.

8. *Power to make rules.*—(1) The Central Government may make rules for carrying out the purposes of this Ordinance.

(2) In particular and without prejudice to the generality of the foregoing power such rules may provide—

(a) for the procedure for the grant of the permission referred to in sub-section (1) of section 3,

(b) for an appeal against a refusal to grant the permission referred to in sub-section (1) of section 3 when such refusal is by an officer authorised in pursuance of that section, and

(c) for regulating the manner in which officers authorised under sub-section (1) of section 3 shall exercise their powers.

THE MILITARY STORES (UNLAWFUL POSSESSION) ORDINANCE, 1943.

Ordinance No. XXXIII of 1943.¹

An Ordinance to make special provision for the punishment of the offence of unlawful possession of military stores.

(Published in the Gazette of India Extraordinary, dated the 11th October, 1943.)

WHEREAS an emergency has arisen which renders it necessary to make special provision for the punishment of the offence of unlawful possession of military stores ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Military Stores (Unlawful Possession) Ordinance, 1943.

(2) It extends to the whole of British India

(3) It shall come into force at once.

¹Applied to the Chittagong Hill-tracts, with effect from 18th November 1943, see Ben. Govt. Notfn. No. 202-S., dated the 4th November 1943.

of His Majesty's dominions outside British India to continue to operate effectively by removal to British India ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Registration of Transferred Companies Ordinance, 1942.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Registration in British India of companies incorporated elsewhere in His Majesty's dominions.*—(1) If the Central Government is satisfied as respects any company incorporated by or under the law in force in any Dominion within the meaning of the Statute of Westminster, 1931 (22 Geo. 5, c. 4), or in British Burma, or in any Colony, or in any British Protectorate, or in any territory, in respect of which a mandate on behalf of the League of Nations has been accepted by His Majesty and is being exercised by His Majesty's Government in the United Kingdom, that it is expedient for any of the purposes specified in sub-section (1) of section 2 of the Defence of India Act, 1939 (XXXV of 1939), to exercise the powers conferred on the Central Government by this Ordinance, the Central Government may by order direct that the company shall be registered under and in accordance with this Ordinance by a Registrar of companies in British India, and, subject to the provisions of this Ordinance, where such a company is so registered, it shall, except so far as the order of the Central Government otherwise provides, be treated for all purposes as if it were a company incorporated under the Indian Companies Act, 1913 (VII of 1913), and registered under that Act in British India and not elsewhere.

(2) Any such order may, in respect of the company to which it relates,—

(a) modify, adapt or exclude any of the provisions of the Indian Companies Act, 1913 (VII of 1913) :

(b) modify, adapt or exclude any provisions of the memorandum and articles of association of the company as in force immediately before the making of the order, or of any other instrument as then in force regulating the constitution or functions of the company ;

(c) contain such transitional provisions as appear to the Central Government to be necessary or expedient for enabling the company to carry on or recommence business outside the territory under the law of which it was incorporated immediately before the making of the order ; and

(d) contain such incidental, supplemental and consequential provisions as appear to the Central Government to be necessary or expedient for the purposes of the order.

(3) The Central Government may make rules—

(a) regulating the manner in which companies are to be registered under this Ordinance and the matters which are to be registered under this Ordinance in relation to any company, and

(b) imposing upon Registrars of companies under the Indian Companies Act, 1913 (VII of 1913), such duties in respect of the keeping of registers, books and other documents relating to the companies so registered as may be specified in the rules.

(4) The registration of a company under this Ordinance shall not affect any liability of the company or any other person to income-tax or excess profits tax, and for the purposes of either such tax a company shall not be deemed to

(c) “subversive matter” means any matter, whether expressed in words, spoken or written or in signs or visible representations or in any other manner whatsoever, which is intended or is likely to cause disaffection among, or to prejudice, prevent or interfere with the discipline, health or training of, or the performance of their duties by, members of His Majesty’s naval, military or air forces, or to induce or influence any member of His Majesty’s naval, military or air forces to fail in the performance of his duties as such, or which is an incitement to the commission of a subversive act.

3. *Subversive acts and uttering, and making, publishing, etc., document containing, subversive matter.*—Whoever—

(a) does any subversive act, or

(b) without lawful authority or excuse utters, or makes, prints, publishes, distributes or spreads by any means whatsoever any document containing, any subversive matter,

shall be punishable with transportation for life or with imprisonment for a term which may extend to ten years and shall also be liable to fine.

4. *Possession of document containing subversive matter.*—(1) Whoever without lawful authority or excuse has in his possession any document containing any subversive matter shall be punishable with imprisonment for a term which may extend to ten years and shall also be liable to fine.

(2) Any person who, without lawful authority or excuse, has on any premises in his occupation or under his control any document containing any subversive matter shall, unless he proves that he did not know and had no reason to suspect that the said document contained any subversive matter, or that the said document was on such premises without his knowledge or against his consent, be deemed to have contravened this section.

5. *Enhancement of penalty for certain offence punishable under the Indian Penal Code.*—Whoever commits an offence punishable under section 121A or section 122 or section 123 or section 131 of the Indian Penal Code may, in lieu of any punishment to which he is liable under the said Code, be punished with death.

THE HOARDING AND PROFITEERING PREVENTION ORDINANCE, 1943.

Ordinance No. XXXV of 1943.¹

An Ordinance to provide for the prevention of hoarding and profiteering.
(Published in the Gazette of India Extraordinary, dated the 16th October, 1943.)

WHEREAS an emergency has arisen which makes it necessary to provide for the prevention of hoarding and profiteering ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Hoarding and Profiteering Prevention Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

¹Applied to the Darjeeling Dist. and the partially excluded areas of the Mymensingh Dist., with effect from 25th November 1943, see Ben. Govt. Notfn. No. 3838-Com., dated the 23rd November 1943.

2. *Interpretation.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “ article ” includes any article or thing, except foodgrains, which has not, by notification in the official Gazette, been declared by the Central Government to be an article or thing to which this Ordinance does not apply ;

(b) “ dealer ” means a person carrying on the business of selling any article, whether wholesale or retail ;

(c) “ Controller General ” means the Controller General of Civil Supplies appointed by the Central Government and includes the Deputy Controller General or Assistant Controller General of Civil Supplies so appointed ;

(d) “ inspector ” means an inspector appointed for the purposes of this Ordinance by the Central or by the Provincial Government ;

(e) “ producer ” includes a manufacturer ;

(f) an article shall be deemed to be in the possession of a person—

(i) when it is held on behalf of that person by another person ;

(ii) notwithstanding that it is mortgaged to another person.

3. *Fixing of maximum quantities which may be held or sold and maximum prices.*—(1) The Central Government may, by notification in the official Gazette, fix in respect of any article—

(a) the maximum quantity which may at any one time be possessed by a dealer or producer ;

(b) the maximum quantity which may in any one transaction be sold to any person ;

(c) the maximum price or rate which may be charged by a dealer or producer.

(2) The quantities and prices or rates fixed in respect of any article under this section may be different in different localities.

4. *Restrictions on possession and sale by dealers and producers where maximum is fixed under section 3.*—No dealer or producer shall—

(a) have in his possession at any one time a quantity of any article exceeding the maximum fixed by notification under clause (a) of sub-section (1) of section 3 ; or

(b) sell or offer for sale to any person in any one transaction a quantity of any article exceeding the maximum fixed by notification under clause (b) of sub-section (1) of section 3 ; or

(c) sell or offer for sale to any person any article for a price or at a rate exceeding the maximum fixed by notification under clause (c) of sub-section (1) of section 3.

5. *Restrictions on possession by dealers or producers where no maximum is fixed under section 3.*—Where no maximum has been fixed by notification under clause (a) of sub-section (1) of section 3,—

(a) no dealer shall have in his possession at any one time a quantity of any article exceeding one-quarter of the total quantity of that article held by him in the course of the year 1939, or as the case may be, exceeding the quantity which the Controller General or other officer empowered in this behalf by the Central or the Provincial Government may intimate to him as the maximum quantity of that article which he may have in his possession at any one time ; and

(b) no producer shall have in his possession at any one time a quantity of any article exceeding one-quarter of his total production of that article during that one of the three years 1940, 1941 and 1942 in which his production was greatest, or, as the case may be, exceeding the quantity which the Controller

General or other officer empowered in this behalf by the Central or the Provincial Government may intimate to him as the maximum quantity of that article which he may have in his possession at any one time.

6. *Restriction on price where no maximum is fixed under section 3.*—(1) Where no maximum has been fixed by notification under clause (c) of sub-section (1) of section 3, no dealer or producer shall sell or offer for sale or otherwise dispose of an article for a consideration which is unreasonable.

(2) For the purposes of this section a consideration is unreasonable if, whether it is exclusively in money or not, it exceeds the amount represented by an addition of twenty per cent. or the addition allowed by normal trade practice whichever is less to—

(a) the cost landed of the article in the case of an imported article,

(b) the cost of production of the article in the case of an article which is not imported,
or if as a condition of sale the purchaser is required to purchase at the same time any other article.

(3) The Controller General may, by order published in the official Gazette, vary in respect of any specified article or class of articles the figure of twenty per cent. referred to in sub-section (2), and if he does so that sub-section shall have effect accordingly.

7. *General limitation on quantity to be possessed at one time.*—(1) No person shall have in his possession at any one time a greater quantity of any article to which this section applies than the quantity necessary for the reasonable needs of himself and his family for a period of three months or such longer period as may for special reasons in his particular circumstances be considered a reasonable period for which to make provision.

(2) For the purposes of sub-section (1), the expression “reasonable needs” includes the fulfilment of social or religious or other customary obligations.

(3) Nothing in this section shall apply to a dealer or producer in respect of any article sold by or produced by him.

(4) This section shall apply only to such articles as the Controller General may by order published in the official Gazette specify for the purpose.

8. *Duty to declare possession of excess stocks.*—Any person having in his possession a quantity of any article exceeding that permitted by or under this Ordinance shall forthwith report the fact to the Controller General or other officer empowered in this behalf by the Central or the Provincial Government, and shall take such action as to the storage, distribution or disposal of the excess quantity as the Controller General or such officer may direct.

9. *Refusal to sell.*—No dealer or producer shall, unless previously authorised to do so by the Controller General or other officer empowered in this behalf by the Central or the Provincial Government, without sufficient cause refuse to sell to any person any article within the limits as to quantity imposed by this Ordinance.

Explanation.—The possibility or expectation of obtaining a higher price for an article at a later date shall not be deemed to be a sufficient cause for the purposes of this section.

10. *Cash memorandum to be given of certain sales.*—(1) Every dealer or producer when selling any article for cash shall, if the amount of the purchase is ten rupees or more, in all cases, and, if the amount of the purchase is less than ten rupees, when so requested by the purchaser, give to the purchaser a cash memorandum containing particulars of the transaction.

(2) The Central Government may, by notification in the official Gazette, prescribe the particulars to be contained in any such cash memorandum.

(3) The Central Government or the Provincial Government may, by notification in the official Gazette, exempt specific areas, classes of dealers or producers, or commodities from the operation of this section.

11. Marketing of prices and exhibiting price list.—(1) The Controller General may direct any dealer or producer to mark articles exposed or intended for sale with the sale prices or to exhibit on his premises a price list of articles held by him for sale, and may further give directions as to the manner in which any such direction as aforesaid is to be carried out.

(2) No dealer shall destroy, efface or alter any label or mark affixed to an article and indicating the price marked by a producer.

12. Powers of Controller General, Inspectors, etc.—(1) The Controller General or an inspector or an officer empowered in this behalf by the Central or the Provincial Government may—

(a) direct a dealer or producer to maintain records of all sale and purchase transactions ;

(b) direct a dealer or producer to furnish any information he may require as to the business carried on by such dealer or producer ;

(c) direct a dealer or producer to furnish any information possessed by such dealer or producer as to the business carried on by any other person ;

(d) inspect or cause to be inspected any books or other documents belonging to or under the control of any dealer or producer ;

(e) enter and search or authorise any person not below the status of a gazetted officer to enter and search any premises ;

(f) seize or authorise the seizure of any article in respect of which he suspects that an offence under this Ordinance has been committed, and thereafter take or authorise the taking of all measures necessary for securing the production of the article in a Court.

(2) The Controller General may, by order published in the official Gazette, issue to all dealers or producers of a specified class a direction such as is referred to in clause (a) or clause (b) of sub-section (1).

13. Penalties.—(1) Whoever contravenes any of the provisions of this Ordinance shall be punishable with imprisonment for a term which may extend to five years, or with fine or with both.

(2) Whoever fails to comply with any direction made under authority conferred by this Ordinance shall be punishable with imprisonment for a term which may extend to three years, or with fine or with both.

(3) A Court convicting any person of an offence punishable under this Ordinance may order any article, in respect of which the offence was committed, to be forfeited to His Majesty.

14. Procedure.—No prosecution for any offence punishable under this Ordinance shall be instituted except with the previous sanction of the Central or the Provincial Government, or of an officer not below the rank of a District Magistrate empowered by the Central or the Provincial Government to grant such sanction.

15. Certain officers to be deemed public servants.—The Controller General, an inspector and any officer empowered for the purposes of section 5, 8, 9 or 12 by the Central or the Provincial Government shall be deemed to be a public servant within the meaning of section 21 of the Indian Penal Code, (XLV of 1860).

16. Bar of legal proceedings.—No suit, prosecution or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Ordinance.

17. Saving of other laws.—The provisions of this Ordinance shall be in addition to and not in derogation of any other law for the time being in force regulating the keeping, storage, distribution, disposal, or price of articles.

THE PRISONERS OF WAR (FORFEITURE OF EMOLUMENTS) ORDINANCE, 1943.

Ordinance No. XXXVI of 1943.¹

AN Ordinance to provide for the forfeiture in certain cases not provided for by the Indian Army Act, 1911, of pay and allowances of certain persons subject to that Act.

(Published in the Gazette of India Extraordinary, dated the 16th October, 1943.)

WHEREAS an emergency has arisen which makes it necessary to provide for the forfeiture in certain cases not provided for by the Indian Army Act, 1911, (VIII of 1911), of pay and allowances of certain persons subject to that Act :

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Prisoners of War (Forfeiture of Emoluments) Ordinance, 1943.

(2) It shall come into force at once.

2. *Interpretation.*—In this Ordinance, “ Indian commissioned officer ” means an Indian commissioned officer as defined in clause (2) of section 7 of the Indian Army Act, 1911 (VIII of 1911).

3. *Forfeiture of pay and allowances of prisoner of war.*—(1) The whole or any part of the pay and allowances of an Indian commissioned officer may be forfeited by order of the Central Government if the officer is found by a military Court of Enquiry constituted under this Ordinance—

(a) to have deserted to the enemy, or

(b) while in enemy hands, to have served with, or under the orders of, the enemy, or in any manner to have aided the enemy, or

(c) to have allowed himself to be taken prisoner by the enemy through want of due precaution, or through disobedience of orders or wilful neglect of duty, or

(d) having been taken prisoner by the enemy, to have failed to rejoin His Majesty's service when it was possible to do so.

(2) The Central Government may at any time cancel in whole or in part any order made under sub-section (1), and any such cancellation may be with retrospective effect.

4. *Courts of Enquiry.*—The Commander-in-Chief of His Majesty's Forces in India or any officer authorised by him in this behalf may constitute a military Court of such composition as the constituting authority thinks fit to enquire into and report to the Central Government on any case of the nature referred to in sub-section (1) of section 3.

¹Applied to the Chittagong Hill-tracts, with effect from 18th November 1943, see Ben. Govt. Notfn. No. 210-S., dated the 15th November 1943.

**THE MILITARY OPERATIONAL AREA (SPECIAL POWERS),
ORDINANCE, 1943.****Ordinance No. XXXVII of 1943.¹**

An Ordinance to authorise in a certain area contiguous with territories now occupied by the enemy the trial of certain offences by Military Courts, to create certain new offences, to enhance penalties provided by law for certain offences, and to confer certain powers upon Military or Air Force authorities.

(Published in the Gazette of India Extraordinary, dated the 19th October, 1943.)

WHEREAS an emergency has arisen which makes it necessary to authorise in a certain area contiguous with territories now occupied by the enemy the trial of certain offences by Military Courts, to create certain new offences, to enhance penalties provided by law for certain offences, and to confer certain powers upon Military or Air Force authorities ;

Now, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935, (26 Geo 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

PART I.

1. *Short title, extent, application and commencement.*—(1) This Ordinance may be called the Military Operational Area (Special Powers) Ordinance, 1943.

(2) It extends to the Province of Assam, to the Districts of Tippera, Noakhali and Chittagong in the Province of Bengal, and, subject to the provisions of section 92 of the Government of India Act, 1935 (26 Geo. 5, c. 2), to the Chittagong Hill-tracts ; and it applies also in the case of British subjects who are domiciled in any part of India, to offences committed in Burma or any territory occupied by the enemy.

(3) It shall come into force at once.

2. *Interpretation.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “ enemy ” includes an enemy agent, and any mutineer, or rebel against whom operations are being carried out by His Majesty’s forces or the forces of a Power in alliance with His Majesty,

(b) “ enemy agent ” means a person, not operating as a member of an enemy armed force, who is employed by, or works for or acts on instructions received from, the enemy or who at any time in the past has been so employed or has so worked or acted.

3. *Powers of military authorities under Defence of India Rules.*—Any reference in the Defence of India Rules to an authority empowered under those Rules to exercise a power conferred by those Rules shall be deemed to include, in relation to the exercise of that power in the area to which this Ordinance extends, a reference to the General Officer Commanding the military forces in that area and to any officer not below the rank of Brigadier whom that General Officer Commanding may authorize in this behalf.

4. *Jurisdiction of Military Courts.*—(1) In the area to which this Ordinance extends, and for so long as it remains in force, the provisions of section 5 of the Code of Criminal Procedure, 1898 (V of 1898), so far as they relate to the trial of offences triable by Military Courts constituted under this Ordinance, shall be deemed to be repealed.

¹Applied to the Chittagong Hill-tracts, with modifications, with effect from 18th November 1943, see Ben. Govt. Notfn. No. 214-S., dated the 16th November 1943.

(2) In the area to which this Ordinance extends the following offences shall, notwithstanding anything contained in section 28 or section 29 of the Code of Criminal Procedure, 1898 (V of 1898), or elsewhere in any law, be triable by, and only by, Military Courts constituted under this Ordinance, namely :—

- (a) any offence made punishable by Part II of this Ordinance ;
- (b) any offence punishable under the Indian Penal Code, which is specified in the Schedule ;
- (c) any offence punishable by or under the Defence of India Rules, which is specified in the Schedule,

when the offence is committed by any person except a person attached to or officially accompanying on duty His Majesty's forces or the forces of a Power in alliance with His Majesty, or a member of any such forces who is not an enemy within the meaning of clause (a) of section 2.

(3) No Military Court constituted under this Ordinance shall try any offence unless the offence was committed either—

- (a) within the area to which this Ordinance extends, or
 - (b) within Burma, or any territory occupied by the enemy, where the accused person is a British subject domiciled in any part of India,
- and unless the offence was committed after the commencement of this Ordinance.

5. *Kinds of Military Courts.*—For the purposes of this Ordinance there shall be the following kinds of Military Courts, namely :—

- (a) Superior Military Courts ;
- (b) Summary Military Courts.

6. *Power to constitute Military Courts.*—Any General Officer Commanding military forces in the area to which this Ordinance extends or an officer not below the rank of Lieut.-Colonel empowered by him in this behalf, may, whenever necessary, convene Superior Military Courts or by general or special order set up Summary Military Courts for the trial of offences triable by such Courts under this Ordinance.

7. *Composition of Military Courts.*—(1) A Superior Military Court shall consist of three officers of whom one at least shall be of rank not below that of Major or Squadron Leader :

Provided that a civilian official being a Judge of a High Court, a Sessions Judge, or an Additional Sessions Judge may be appointed in the place of not more than one such officer.

(2) A Summary Military Court shall consist of one person who shall be either an officer of rank not below that of Major or Squadron Leader, or a Magistrate of the first class.

(3) The President of a Superior Military Court shall be nominated by the convening authority.

8. *Cases triable by and powers of Military Courts.*—(1) A Superior Military Court may try any offence triable by a Court constituted under this Ordinance and may pass any sentence authorised by law.

(2) A Summary Military Court may try any such offence except an offence punishable with death or with transportation or imprisonment for more than seven years, and may pass any sentence authorised by law except a sentence of imprisonment for more than one year or of fine exceeding seven hundred and fifty rupees.

9. *Distribution of cases, transfer of cases, and place of sitting of Courts.*—The General Officer Commanding the military forces in the area to which this Ordinance extends or any officer authorised by him in this behalf, may by general

or special order give directions as to the distribution between Superior Military Courts and Summary Military Courts or among Superior Military Courts and among Summary Military Courts of cases for trial, as to the transfer of cases from one Military Court to another, and as to the places at which Military Courts shall sit.

10. Procedure of Superior Military Courts.—(1) A Superior Military Court shall exercise the powers of and follow the procedure laid down in the Indian Army Act, 1911 (VIII of 1911), and the rules made thereunder for a summary general court-martial convened under that Act, and the provisions of that Act and of the rules made thereunder shall, so far as they are not inconsistent with the provisions of this Ordinance, have effect in relation to a Superior Military Court as they have effect in relation to a summary general court-martial :

Provided that—

(a) an accused person may not object to any member of the Court ;

(b) a memorandum of the evidence given at the trial and the statement, if any, made by the accused shall always be recorded.

(2) The finding and sentence of a Superior Military Court shall require to be confirmed by the convening officer in every case :

Provided that a sentence of death shall be reserved for confirmation by the General Officer Commanding the military forces in the area to which this Ordinance extends and a sentence of transportation or imprisonment for more than five years shall be reserved for confirmation by an officer of rank not below that of Major-General.

11. Procedure of Summary Military Courts.—A Summary Military Court shall follow the procedure laid down in the Indian Army Act, 1911 (VIII of 1911), and the rules made thereunder for a summary court-martial convened under that Act, and the provisions of that Act and of the rules made thereunder shall, so far as they are not inconsistent with the provisions of this Ordinance, have effect in relation to a Summary Military Court as they have effect in relation to a summary court-martial :

Provided that—

(a) no other officer shall be required to attend the trial ;

(b) the proceedings may be recorded in schedule form and the Court shall not be required to record more than a memorandum of the evidence.

12. Legal Practitioners.—Every person accused of an offence before a Superior Military Court or a Summary Military Court shall be entitled to be defended by a legal practitioner :

Provided that the Court shall not be required to grant an adjournment for the purpose of securing the attendance of a legal practitioner, if in the opinion of the Court, such adjournment would cause unreasonable delay in the disposal of the case.

13. Trials in camera.—(1) A Superior Military Court or a Summary Military Court may direct that throughout or during any part of the proceedings before the Court such persons or classes of persons as the Court may determine shall be excluded.

(2) Where the Court makes a direction under sub-section (1) the Court may further direct that any legal practitioner by whom the accused is to be defended shall be a person approved or chosen from among persons approved in this behalf by such authority as the General Officer Commanding the military forces in the area to which this Ordinance extends may empower for the purpose, and may also direct that no information with respect to the proceedings of the Court or with respect to the accused shall be disclosed or published.

14. Powers of arrest.—(1) Any person reasonably suspected of having committed an offence triable under this Ordinance may be arrested without warrant by any member of His Majesty's forces.

(2) A member of His Majesty's forces making any such arrest shall at once produce the person arrested before a military authority empowered to bring him to trial or before his immediately superior officer who shall take steps to forward the arrested person to an authority empowered to bring him to trial.

15. Confinement in custody.—Any person arrested under section 14 or accused of an offence triable under this Ordinance may be confined in military custody pending the investigation and trial of the offence, and such custody shall be lawful whether within the area to which this Ordinance extends or elsewhere in British India.

16. Transfer of cases investigated or enquired into under the Code of Criminal Procedure.—When it appears from a police report or in the course of enquiry into an offence that the offence is one triable under this Ordinance, the Magistrate shall, on perusal of the police report or when the case has relating to the case to that authority, and no order under section 326 of the the Code of Criminal Procedure, 1898 (V of 1898), make over the case to the nearest military authority empowered to bring the accused person to trial and shall forward the accused, if in custody, and shall send all police reports relating to the case to that authority, and no order under section 526 of the Code of Criminal Procedure, 1898 (V of 1898), shall be made in respect of any case which under the provisions of this section is required to be made over to the military authority.

17. Service of Summons.—(1) The convening officer, or a Military Court, or the Judge Advocate, if any, may summon any person to attend at a time and place to be mentioned in the summons for the purpose of giving evidence or of producing any document or other thing.

(2) Such summons may, in lieu of being sent to a Magistrate for service as provided in sub-section (3) of section 84 of the Indian Army Act, 1911 (VIII of 1911), be served by an emissary authorised by the authority issuing the summons.

18. Execution of sentences.—(1) When a sentence of death passed by a Superior Military Court has been confirmed by the confirming authority, the confirming authority shall forthwith forward the accused to a jail in British India with the warrant authorising the carrying out of the sentence, and such warrant shall be executed by the officer in charge of the jail and returned by him after execution to the confirming authority.

(2) When the accused is sentenced to transportation or imprisonment the confirming authority, or, in the case of a sentence which does not require confirmation, the Court passing the sentence shall forward a warrant to the jail in which he is to be confined, and shall forward him to such jail with the warrant.

(3) When the accused has been sentenced to pay a fine, a copy of such sentence signed and certified by the Court may be sent to any Magistrate in British India, and such Magistrate shall thereupon cause the fine to be recovered in accordance with the provisions of the Code of Criminal Procedure, 1898 (V of 1898), for the levy of fines, as if it was a sentence of fine imposed by such Magistrate.

(4) When the accused is sentenced to whipping only, the sentence shall be executed at such time and place as the confirming authority, or, in the case of a sentence which does not require confirmation, the Court, may direct :

Provided that the provisions of sub-section (2) of section 392 and the provisions of sections 393 and 394 of the Code of Criminal Procedure, 1898 (V

of 1898), shall apply, and every such sentence shall, as far as possible, be carried out in a place to which the public shall not be admitted.

(5) When the accused is sentenced to whipping in addition to imprisonment, the whipping shall be carried out in the jail to which the accused is sent under sub-section (2) and in accordance with the provisions of sections 392, 393 and 394 of the Code of Criminal Procedure, 1898 (V of 1898).

(6) Notwithstanding anything contained in the foregoing sub-section, a person sentenced to transportation or imprisonment may, if for good reason he cannot conveniently be sent to a jail, be kept in military custody until arrangements for his confinement in a jail can be made.

(7) The form of the warrants referred to in sub-sections (1) and (2) shall be as nearly as may be the form prescribed under the Indian Army Act, 1911 (VIII of 1911), for the execution of sentences passed under that Act.

19. *Bar of interference by other Courts.*—(1) No Court shall have authority to revise any order or sentence passed by a Military Court constituted under this Ordinance or to transfer any case from such Court, or to make any order under section 491 of the Code of Criminal Procedure, 1898 (V of 1898), or to exercise any jurisdiction of any kind in respect of any proceedings of such a Court.

(2) No High Court shall have authority to make any order under section 491 of the Code of Criminal Procedure, 1898 (V of 1898), in respect of any person confined in military custody under this Ordinance.

20. *Bar of legal proceedings.*—No suit, prosecution or other legal proceedings shall lie against any person in any Court for or in respect of anything done or in good faith intended to be done under this Ordinance.

21. *Bar of operation of sections 401 and 402 of the Code of Criminal Procedure, 1898.*—The powers conferred on the Provincial Government by sections 401 and 402 of the Code of Criminal Procedure, 1898 (V of 1898), shall not be exercisable by the Provincial Government in respect of any sentence imposed by a Military Court under this Ordinance, but those powers may be exercised in respect of any such sentence by the Governor General in his discretion.

PART II.

22. *Punishment for offences under sections 121A, 122, 125 and 131, Indian Penal Code.*—Whoever commits an offence punishable under section 121A, 122, 125 or 131 of the Indian Penal Code, (XLV of 1860), may, in lieu of any punishment to which he is liable under the said Code, be punished with death.

23. *Punishment for contraventions of rule 36, Defence of India Rules.*—Whoever contravenes any of the provisions of rule 36 of the Defence of India Rules, or is deemed under the provisions of the said Rules to have contravened such provision, may, in lieu of any punishment to which he is liable under the said Rules, be punished with death, or with whipping or with whipping in addition to any punishment to which he is liable under the said Rules.

24. *Punishment for attempts and abetments.*—Whoever attempts to commit, or abets or attempts to abet the commission of, an offence triable under this Ordinance, shall, notwithstanding anything to the contrary in the Indian Penal Code, (XLV of 1860), or any other law, be punishable with the punishment provided by law for the commission of such offence.

25. *Communication with enemy and hindering operations of forces.*—Whoever—

(a) without lawful authority communicates to the enemy, or with the intention of communicating it to the enemy, collects, publishes or attempts

to elicit any information with respect to the movements, number, description, condition or disposition of any of His Majesty's forces or of any forces of a Power in alliance with His Majesty or with respect to the plans or conduct or supposed plans or conduct of military operations by any such forces, or with respect to any works or measures undertaken for or connected with or intended for the defence of any place, or with respect to any other matter whatsoever information as to which would or might be, directly or indirectly useful to the enemy, or

(b) wilfully commits any act calculated to mislead, or hamper the movement or imperil the success of any operations of His Majesty's forces or any forces of a Power in alliance with His Majesty

shall be punishable with death or with transportation for life or with imprisonment for a term which may extend to ten years and shall also be liable to fine.

26. *Assisting enemy.*—Whoever voluntarily assists in any manner whatsoever, or knowingly protects, harbours or conceals any enemy or prisoner of war shall, notwithstanding anything contained in the Indian Penal Code, (XLV of 1860), be punishable with death or with transportation for life or with imprisonment which may extend to ten years and shall also be liable to fine.

27. *Obstruction of member of military force.*—Whoever wilfully obstructs or interferes in any manner with a member of His Majesty's forces or of forces of a Power in alliance with His Majesty when such member is acting in the execution of his duty shall be punishable with transportation for life or with imprisonment for a term which may extend to seven years, and shall also be liable to fine.

28. *Failure to give information concerning enemy.*—Whoever, having seen or having come into contact with the enemy, or having obtained knowledge of the whereabouts of any gathering, movements or intended gathering or intended movements of the enemy, or knowing or having reason to believe that any of his relatives or dependents have joined or are about to join the enemy, fails without delay to give full information thereof to the nearest military or civil authority, shall be punishable with imprisonment for a term which may extend to seven years and shall also be liable to fine.

29. *Poisoning water-supplies and damaging military equipment.*—Whoever—

(a) poisons or does any act calculated to render poisonous any water supply, or

(b) interferes with or damages or takes away any stores or equipment or other property whatsoever belonging to or consigned to His Majesty's forces or forces of a Power in alliance with His Majesty

shall be punishable with death or with transportation for life or with imprisonment for a term which may extend to ten years or with whipping either in lieu of or in addition to such transportation or imprisonment.

30. *Unauthorised possession of military stores or equipment.*—(1) Whoever is found in unauthorised possession of any stores or equipment or any other property whatsoever belonging to or consigned to His Majesty's forces or the forces of a Power in alliance with His Majesty shall be punishable with imprisonment for a term which may extend to seven years or with whipping or with both imprisonment and whipping, and shall also be liable to fine.

(2) The burden of proving that his possession is authorised shall be upon the person in whose possession any such stores, equipment or property is found.

31. *Spreading false intelligence or alarming reports.*—Whoever disseminates false intelligence knowing it to be false, or spreads reports calculated to cause alarm or despondency shall be punishable with imprisonment which may extend to seven years or with fine or with both.

32. *Destroying or damaging notices.*—Whoever destroys, damages or tampers with any notice exhibited under the authority of the military authorities shall be punishable with imprisonment for a term which may extend to five years, or with whipping or with both imprisonment and whipping, and shall also be liable to fine.

33. *Failure to obey summons and contumacy in Court.*—Whoever being summoned to attend a Military Court constituted under this Ordinance—

(a) without reasonable cause omits to attend, or

(b) refuses to take an oath or make a solemn affirmation in the required manner, or

(c) without reasonable cause refuses to produce any relevant document under his control, or

(d) wilfully causes an interruption of or disturbance in the proceedings of the Court, or

(e) refuses to give evidence, or gives evidence which is false and which he either knows or believes to be false or does not believe to be true, shall be punishable with imprisonment for a term which may extend to five years or with fine or with both.

34. *Disclosure of information concerning trial.*—Whoever in contravention of a direction made under sub-section (2) of section 13 of this Ordinance forbidding the disclosure or publication of information relating to a trial discloses or publishes any such information shall be punishable with imprisonment for a term which may extend to two years or with fine or with both.

THE SCHEDULE.

[See Section 4 (2) (b) and (c).]

1. An offence punishable under Chapter VI or Chapter VII of the Indian Penal Code, (XLV of 1860).

2. An offence punishable under Chapter XVI of the Indian Penal Code, (XLV of 1860), where the person against whom the offence is committed is a member of His Majesty's forces or the forces of a Power in alliance with His Majesty or of a police force or civil armed force acting with His Majesty's forces.

3. An offence punishable under clause (a) of section 505 of the Indian Penal Code, (XLV of 1860).

4. The following offences punishable under the Defence of India Rules, namely :—

(a) a contravention of rule 6, 8A, 10, 13, 35 or 36.

(b) a contravention of an order made under rule 8, 9, or 49.

5. Any conspiracy to commit or any attempt to commit or any abetment of any of the aforesaid offences.

THE SUGAR (TEMPORARY EXCISE DUTY) ORDINANCE, 1943.

Ordinance No. XLI of 1943.

An Ordinance to impose a temporary duty of excise on certain sugar produced in British India.

(Published in the Gazette of India Extraordinary, dated the 10th November, 1943.)

WHEREAS an emergency has arisen which makes it necessary to impose a temporary duty of excise on certain sugar produced in British India ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title, extent and commencement.*—(1) This Ordinance may be called the Sugar (Temporary Excise Duty) Ordinance, 1943.

(2) It extends to the whole of British India.

(3) It shall come into force at once.

2. *Definitions.*—In this Ordinance, unless there is anything repugnant in the subject or context,—

(a) “ Assessing Officer ” and “ Circle Officer ” mean, respectively, any officer appointed by the Provincial Government or by the Collector of Central Excise and Salt Revenue having jurisdiction in the area to exercise the powers of an Assessing Officer or a Circle Officer under this Ordinance ;

(b) “ Assistant Collector ” means an Assistant Collector of Central Excise and Salt Revenue and includes any officer specially authorised by the Central Board of Revenue or by the Provincial Government to exercise in any specified area all or any of the powers of the Assistant Collector for the purposes of this Ordinance ;

(c) “ factory ” means any premises wherein or within the precincts of which twenty or more workers are working or were working on any day of the twelve months preceding the date of the commencement of this Ordinance ;

(d) “ sugar ” means any form of sugar containing more than ninety per cent. of sucrose ;

(e) “ wholesale dealer ” means any person who buys or sells sugar wholesale and includes a broker or commission agent who in addition to making contracts for the sale or purchase of sugar for others, stocks sugar belonging to others as an agent for the purpose of sale.

3. *Imposition of duty.*—A duty of excise at the rate of thirteen annas per standard maund shall be levied, and shall be payable to the Central Government, on all sugar produced in any factory in British India before the commencement of this Ordinance and owned or possessed at the commencement of this Ordinance by an owner of a factory or by a wholesale dealer.

4. *Disclosure of stocks.*—Every person owning or possessing sugar liable to the duty imposed by section 3 shall, within seven days of the date of the commencement of this Ordinance, submit to the Assessing Officer having jurisdiction in the area a full account in writing, containing the particulars entered in Form A set out in the Schedule and verified in the manner indicated in that form, of all sugar in his ownership or possession on the date of the commencement of this Ordinance, and shall specify therein the place where such sugar is stored and, if it is in transit from one place to another, the date, place and manner of despatch, its destination, the name and address of the consignee, and the date on which it is expected to reach such destination.

5. *Assessment and payment of duty.*—(1) On receipt of the return referred to in section 4 and after such further enquiry, if any, as he may think necessary,

the Assessing Officer shall assess the duty payable on the sugar. If no return is submitted within the period specified in section 4, the Circle Officer, or, if the sum assessed exceeds two hundred rupees, the Assistant Collector, may make a summary assessment of the duty on such information as may be available to him.

(2) The amount so assessed shall be communicated in writing to the person owning or possessing the sugar with the particulars contained in Form B set out in the Schedule ; and that person shall, not later than the 1st day of December, 1943, unless he obtains permission under sub-section (3) to pay by instalments, pay it into the local Treasury or any other Treasury approved by the Assessing Officer.

(3) Such payment may, with the permission of the Assessing Officer obtained when the assessment is communicated under sub-section (2), be made in instalments not more than three in number, of which, when three instalments are allowed, the first shall be not less than one-third of the total amount due and shall be paid not later than the 1st day of December, 1943, and the second shall be not less than one-half the balance due and shall be paid not later than the 1st day of January, 1944, and the third shall be paid not later than the 1st day of February 1944, and, when two instalments are allowed, the first shall be not less than half the total amount due and shall be paid not later than the 1st day of December, 1943, and the second shall be paid not later than the 1st day of January, 1944.

6. *Recovery of duty with penalty.*—If the duty payable under section 3 is not paid in full before the 2nd day of February, 1944, or if any instalment is not paid in full by the date fixed by section 5, the Circle Officer, or, if the deficit exceeds one hundred rupees, the Assistant Collector may, in lieu of the amount left unpaid, recover any sum not exceeding double the amount left unpaid.

7. *Mode of recovery of duty.*—When default is made in the payment of any duty payable under section 3, or when any sum is to be recovered under section 6, the Assistant Collector may prepare a certificate signed by him specifying the amount due from the person liable to pay the same and send it to the Collector of the district in which such person resides or conducts his business and the said Collector, on receipt of such certificate, shall proceed to recover from the said person the amount specified therein as if it were an arrear of land revenue.

8. *Power to obtain information.*—An Assessing Officer or any person authorised in writing in this behalf by an Assistant Collector may at all reasonable times enter any place in which he has reason to believe that sugar liable to the duty imposed by section 3 is kept, and may inspect such place and may require any person found therein who is for the time being in charge thereof to produce to him and allow him to examine such accounts, books or other documents as may relate to the business carried on in such place and to furnish to him such information as he may require for the purpose of ascertaining whether or what sugar liable to duty is kept in such place or is elsewhere in the ownership or possession of the owner of such place.

9. *Disposal of sugar liable to duty.*—No person owning or possessing sugar liable to the duty imposed by section 3 shall sell or otherwise dispose of any sugar until the order of assessment has been communicated to him and until he holds a release order signed by the officer making the assessment :

Provided that nothing in this section shall apply to sugar sold retail in quantities not exceeding two pounds to one person at one time.

10. *Offences and penalties.*—Whoever commits any of the following offences, namely :—

(a) fails to supply the information required by section 4 or under section 8 or (unless with a reasonable belief, the burden of proving which shall

be upon him, that the information supplied by him is true) supplies false information ;

(b) evades the payment of any duty payable by him under this Ordinance ;

(c) obstructs any Assessing Officer or other authorized person in the exercise of his powers under section 8 ;

(d) contravenes the provisions of section 9 ;

(e) attempts to commit, or abets the commission of any of the offences mentioned in the foregoing clauses of this section,

shall, for every such offence, be punishable with imprisonment for a term which may extend to one year, or with fine, or with both, and where the offence is committed, attempted or abetted in respect of sugar liable to duty under section 3 such fine may extend to five times the duty leviable on the sugar in respect of which the offence is committed, attempted or abetted.

11. *Power of Courts to order forfeiture.*—Any Court trying an offence under this Ordinance may order the forfeiture to His Majesty of any sugar in respect of which the Court is satisfied that an offence under this Ordinance has been committed, and may also order the forfeiture of any receptacles, packages, or coverings in which such sugar is contained and the animals, vehicles, vessels or other conveyances used in carrying the sugar :

Provided that in ordering forfeiture under this section, the Court shall give the owner of the goods an option to pay in lieu of forfeiture such fine as the Court thinks fit.

12. *Appeals.*—(1) Any person aggrieved by any decision or order passed under section 5 or section 6 may, within one month from the date of such decision or order, appeal therefrom to the Collector of Central Excises and Salt Revenue having jurisdiction in the area ; but the filing of such an appeal shall not, pending the appeal, absolve him from the obligation to pay the sum or sums specified in such decision or order.

(2) The Collector of Central Excises and Salt Revenue may thereupon make such further inquiry and pass such order as he thinks fit, confirming, altering or annulling the decision or order appealed against ; and if the money deposited by the person making the appeal exceeds the amount directed by the Collector of Central Excises and Salt Revenue to be paid, the money deposited in excess of such amount shall be refunded.

(3) Every order passed in appeal under this section shall, subject to the power of revision conferred by section 13, be final.

13. *Revision by the Central Board of Revenue.*—The Central Board of Revenue may, on the application of any aggrieved person, reverse or modify any decision or order made under section 5, 6, or 12.

14. *Rebate on export.*—The Central Government may, by notification in the official Gazette, make rules to provide for the grant of a rebate of the duty paid under this Ordinance on sugar which is afterwards exported to any country outside India.

15. *Bar of legal proceedings.*—No suit, prosecution or other legal proceeding shall lie against any person for anything done or in good faith intended to be done under this Ordinance.

16. *Saving of other laws.*—The provisions of this Ordinance shall be in addition to and not in derogation of any other law for the time being in force in relation to the levy of central duties of excise on sugar.

THE SCHEDULE.

[See sections 4 and 5 (2).]

FORM A.

PARTICULARS TO BE CONTAINED IN ACCOUNT RENDERED UNDER SECTION 4.

I|We.....of.....
 owner of.....factory

doing business as a wholesale dealer and holding licence No.....
 hereby declare that the following stocks of sugar were held by me/us on the....
November, 1943 :—

Place of storage. If any quantities are in transit, state hereunder the date, place and manner of despatch of each con- signment, the name and address of the consignee and the date on which it is expected to reach such destination.	Num- ber of bags.	Average weight of contents of bags in maunds and seers.	Total quantity.		Remarks.
			Mds.	Seers.	

1. I|We.....hereby declare the above particulars to be true.

2. I|We wish to pay the sum leviable hereon in.....
 instalments.

Signature of factory owner.....
 or other stockholder.....

Date.....

FORM B.

PARTICULARS TO BE CONTAINED IN COMMUNICATION OF ASSESSMENT UNDER SECTION 5

To.....of.....
 owner of factory

doing business as a wholesale dealer and holding licence No.

Duty on.....maunds of sugar owned or possessed by you on
 the..... has been assessed at Rs.....

You are required to pay the whole of this amount before the 1st day of
 December, 1943.

You are permitted to pay this amount in two|three instalments.

Signature.....
 Assessing Officer.

Date.....

THE PENAL DEDUCTIONS ORDINANCE, 1943.

Ordinance No. XLIII of 1943.

An Ordinance to authorise the making of certain penal deductions from the pay and allowances of certain persons subject to the Indian Army Act, 1911.

(Published in the Gazette of India Extraordinary, dated the 2nd December, 1943.)

WHEREAS an emergency has arisen which makes it necessary to authorise the making of certain penal deductions from the pay and allowances of certain persons subject to the Indian Army Act, 1911 (VIII of 1911) ;

NOW, THEREFORE, in exercise of the powers conferred by section 72 of the Government of India Act, as set out in the Ninth Schedule to the Government of India Act, 1935 (26 Geo. 5, c. 2), the Governor General is pleased to make and promulgate the following Ordinance :—

1. *Short title and commencement.*—(1) This Ordinance may be called the Penal Deductions Ordinance, 1943.

(2) It shall come into force at once.

2. *Deductions from pay and allowances of persons subject to Indian Army Act, 1911.*—(1) In addition to and without derogation from the provisions of sub-section (2) of section 50 of the Indian Army Act, 1911 (VIII of 1911), penal deductions may be made from the pay and allowances of a person subject to the Indian Army Act, 1911 (VIII of 1911), other than an Indian commissioned officer for recovery of any sum required to pay a fine imposed on him by the head of a training establishment as defined in clause (j) of section 2 of the National Service (Technical Personnel) Ordinance, 1940 (II of 1940), in which he is for the time being undergoing training, in respect of an act or omission for which the Head of the establishment could, if he were the employer in an industrial establishment to which the Payment of Wages Act, 1936 (IV of 1936), applies, in accordance with the provisions of that Act, impose a fine of similar amount on a person employed in such industrial establishment.

(2) The provisions of sections 51 and 52 of the Indian Army Act, 1911 (VIII of 1911), shall apply to any deduction made under this Ordinance as they apply to deductions authorised under the said Act, and the proviso to sub-section (2) of section 50 of the said Act shall have effect as if a deduction made under this Ordinance were a deduction made under any of the clauses (e) to (g), both inclusive, of the said sub-section.

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